

ORDINANCE NO. 13 - 19

**AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON,
AMENDING REPEALING CHAPTER 3.84 BMC; REPEALING
CHAPTER 20.01 BMC; ADDING A NEW TITLE 20 BMC; PROVIDING
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the city desires to have internally consistent code that is easy to read; and

WHEREAS, Chapter 36.70B RCW requires certain regulatory elements to be in our code; and

WHEREAS, the existing Title 20 BMC is designed to contain all the information required by Chapter 36.70B RCW in one chapter; and

WHEREAS, the existing Title 20 BMC is difficult to navigate; and

WHEREAS, Chapter 3.81 BMC contains some permit fee regulations, as does Chapter 20.01 BMC; and

WHEREAS, in reviewing Chapter 20.01 BMC, the city discovered some differences with Chapter 3.81 BMC concerning fees; and

WHEREAS, a single location for permit fee regulations is preferred; and

WHEREAS, the Shoreline Master Program is under review and the adopting ordinance contains certain sections for review under BMC 19.42 that are appropriate for this title; and

WHEREAS, the planning commission reviewed Chapter 20.01 BMC and broke the single chapter into several topical chapters to make the information easier to find and understand; and

WHEREAS, the "60-day notice" expedited review request was received by the Washington State Department of commerce April 25, 2019, under Submittal ID Number 2019-S-123; and

WHEREAS, environmental review was completed and a determination of non-significance (DNS) was issued May 1, 2019; and

WHEREAS, the expedited review request was granted on May 13, 2019; and

WHEREAS, a public hearing notice was published May 15, 2019; and

WHEREAS, the planning commission conducted a public hearing on this proposal on June 3, 2019; and

WHEREAS, the planning commission heard no comments at the hearing, and on June 17, 2019, recommended the city council adopt the proposed ordinance;

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

Section 1. Chapter 3.81 is repealed.

Section 2. Chapter 20.01, Administration of Land Use and Zoning Applications and Development Regulations, is hereby repealed in its entirety and replaced with the following:

Title 20, Land use and development.

20.02 General provisions and fees.

20.02.005 Scope.

Title 20 applies to the processing of project permit applications except to the extent exempted under Chapter 20.12 BMC. Legislative actions are only addressed to the extent expressly identified in Title 20.

20.02.010 Purpose.

In enacting this title, the city council intends to establish an integrated permit review process, including environmental review, that implements the provisions of Chapter 36.70B RCW (the Regulatory Reform Act, ESHB 1724) while ensuring compliance, conformity, and consistency of proposed projects with the city's adopted comprehensive plan and development regulations.

20.02.020 Conflict with other procedures.

In the event of a conflict in project application and/or public hearing procedures found elsewhere in the Buckley Municipal Code and the requirements of this title, except for the city's Shoreline Master Program, the requirements and procedures set forth in this title shall prevail. For conflicts with the Shoreline Master Program, the more restrictive provision shall apply unless an alternative interpretation is necessary to assure compliance with both the Shoreline Management Act and the Regulatory Reform Act.

20.02.030 Application fees and costs incurred by the city.

- (1) The applicant shall be charged the amount charged to the city by outside-contracted consultants; the city may charge an overhead.
 - (a) Any of the city's outside consultants, when asked by the city to provide services in connection with any proposed development, shall submit a cost estimate to the city planner for the services to be provided.
 - (b) The applicant for the proposed development shall pay a deposit in the amount specified in the City's Taxes Rates, and Fees chart in addition to the consultant costs identified in BMC 20.02.030(1)(a).
 - (c) The city planner will forward the total amount of permit fees and consultant estimates to the applicant for payment, prior to application submittal.
 - (d) In the event the deposit is not depleted, it shall be returned to the applicant.

- (2) The land use and/or permit applicant shall pay to the city all costs incurred by the city that are associated with processing the land use proposals.
 - (a) No application shall be considered complete under this title until sufficient fees are provided.
 - (b) All costs associated with public notices shall be borne by the applicant.
 - (c) City and consultant reimbursables include, but are not limited to, staff time for application review, assessment, engineering, inspections, legal, secretarial, administrative costs, cost of publications, and other city processing costs.
- (3) Fees for routine city processing costs for building and land use applications, permits and agreements shall be as set forth by resolution of the city council.
 - (a) Non-routine or complex projects for which a pre-application conference is called shall establish fees based on an estimation of staff time that would likely be required to complete review and issue a recommendation to the decision maker. In such cases, the director shall estimate the amount of all costs anticipated to be incurred by the city associated with processing the proposal, including engineering, inspection, legal and administrative costs, and staff time.
 - (b) Hourly rates for city staff time to process land use and/or permit applications shall be as established by resolution of the city council.
- (4) If the cost of review exceeds the initial refundable fee amount, the city shall immediately notify the applicant in writing of the estimated additional fee amount required for the review.
- (5) Except for agreed-upon emergencies, deposit amounts, intake fees, and hourly charges for permit applications submitted after the work is begun shall be doubled, unless otherwise specified.

20.02.040 Legislative procedures and limitations.

- (1) The administrative procedures for the legislative decisions specified in this chapter are set forth coordinately by adopted ordinances.
 - (2) Nothing in this title or the permit processing procedures shall limit the authority of the city to make changes to the Buckley comprehensive plan, as part of an annual revision process, or to the city's development regulations, or to undertake any other legislative actions.
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20.04 Definitions.

20.04.010 Definitions.

In addition to the definitions in BMC 1.01.060 and 070, the following definitions shall apply throughout this title:

20.04.020 Adequate public facilities

"Adequate public facilities" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

20.04.030 Adjacent landowners.

“Adjacent landowners” means the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision.

20.04.040 Aggrieved party.

“Aggrieved party” is a party of record who can demonstrate all of the following:

- (1) The land use decision has prejudiced or is likely to prejudice that person;
- (2) That person’s asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;
- (3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
- (4) The petitioner has exhausted his or her administrative remedies to the extent required by law.

20.04.xxx Appellant.

“Appellant” means a person, organization, association or other similar group who files a complete and timely appeal of a city decision.

20.04.xxx Applicant.

“Applicant” means a person who is the owner of the subject property or the authorized representative of the owner of the subject property, and who has applied for land use permits.

20.04.xxx Closed record appeal.

“Closed record appeal” means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. Only parties of record to the open public hearing may participate in the closed record appeal.

20.04.xxx Complete application.

“Complete application” means an application that contains all material required for that permit as stated in appropriate sections of the Buckley Municipal Code and the appropriate application form, and is determined to be complete by a letter to the applicant; or an application for which no determination of incomplete application was made within the required timeframe.

20.04.xxx Concurrency.

"Concurrency" means that, based on the schedule of improvements in the appropriate element of the comprehensive plan, each concurrency facility will have capacity to serve the development at time of occupancy, or reasonably soon thereafter, at the adopted the level of service.

20.04.xxx Consistency.

"Consistency" means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

20.04.xxx Department.

“Department” means the city of Buckley planning department.

20.04.xxx Determination of complete application.

“Determination of complete application” means information required for a complete application by City regulations has been submitted.

20.04.xxx Director.

“Director” shall mean the City of Buckley planning department director or the director’s designee.

20.04.xxx Effective Date of Notices.

All notices provided to applicants and any members of the public shall be deemed given on the third day after deposit in the U.S. mail, first class postage prepaid.

20.04.xxx Ministerial.

“Ministerial” means an action that allows for little discretion and requires adherence to previous decisions or adopted rules and regulations.

20.04.xxx Notice of application.

“Notice of application” means a formal notice stating a submitted project meets the minimum submittal requirements as stated by appropriate codes.

20.04.xxx Notice of decision.

“Notice of decision” means a formal notice stating a project was reviewed and decided.

20.04.xxx Open record hearing.

- (1) “Open record hearing” means a hearing, conducted by a single hearing body or officer, that creates the record through testimony and submission of evidence and information.
- (2) An open record hearing may be held prior to a decision on a project permit to be known as an “open record pre-decision hearing.”
- (3) An open record hearing may be held on an appeal, to be known as an “open record appeal hearing,” if no open record pre-decision hearing was conducted on the project permit.

20.04.xxx Parties of record.

“Parties of record” means the land use permit applicant, persons who have testified at an open record hearing, and any persons who have submitted written comments concerning the application that form part of the public record that is considered at the open record hearing.

20.04.xxx Project permit.

“Project permit” or “project permit application” means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

20.04.xxx Public hearing.

Public hearing. See “Open record hearing.”

20.04.xxx Quasi-judicial permit.

Quasi-judicial actions of decision-making bodies are those actions of the City Council, planning commission, hearing examiner, board of adjustment, or other decision makers or hearing bodies who determine or make recommendations upon the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.

20.04.xxx Review authority.

“Review authority” is a person or board or commission authorized by City regulations to make a decision or recommendation on a project permit application or land use regulation or policy.

20.04.xxx Type A-1 permit or process.

“Type A-1 permit or process” means a process that involves an application that is subject to clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues and therefore does not require public participation. This includes decisions regarding application of fees and codes similar to and including building and construction codes.

20.04.xxx Type A-2 permit or process.

“Type A-2 permit or process” means a process that involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about nontechnical issues and about which there may be a limited public interest.

20.04.xxx Type A-3 permit or process.

“Type A-3 permit or process” means an application that is subject to objective and subjective standards that require the exercise of discretion about nontechnical issues and about which may be a public interest.

20.04.xxx Type C-1, C-2, C-3 permit or processes

“Type C-1, C-2, C-3 permits or processes” means processes which involve applications that generally require the exercise of substantial discretion and about which there is a broad public interest.

20.08 Permit types.

20.08.010 Purpose.

The purpose of this chapter is to identify methods in which decisions within the city are made.

20.08.020 Types of development permit applications.

For the purpose of project permit processing, all development permit applications shall be subject to one or more of the following:

- (1) Administrative procedures, Type A procedures.
 - (a) Type A-1; this process does not require public notice;
 - (b) Type A-2; this process requires public notice;

- (c) Type A-3; this process requires public review with a review committee or commission, such as the planning commission.
- (2) Legislative procedures, Type C procedures.
 - (a) Type C-1; is legislative or quasi-judicial and requires public hearings. The decision-making body for Type C-1 processes is the city council.
 - (b) Type C-2; processes are quasi-judicial and requires public hearings (the decision-making body shall be the hearing examiner, except the city council shall be the decision-making body for site specific rezones, mobile home parks, planned unit developments, major planned unit development amendments and any other permit project approval requiring adoption of an ordinance).
 - (c) Type C-3; processes are largely ministerial or administrative and do not require a public hearing (the decision-making body for Type C-3 is the city council).

20.08.030 Procedures for processing development project permits.

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 ⁷	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.						
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.						
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						
<u>12.08.130</u>	Critical area exemption	A-1					
<u>12.08.140</u>	Critical area exception – public agency and utility					C-2	
<u>12.08.330</u>	Critical areas variance					C-2	
<u>12.08.260</u>	Innovative wetland mitigation					C-2	
<u>12.08.150</u>	Reasonable use exception					C-2	
<u>12.04</u>	SEPA determination		A-2				
<u>20.36.020(2)</u>	Shoreline exemption	A-1					
<u>20.36.040</u>	Shoreline substantial development permit		A-2				
<u>20.36.040</u>	Shoreline conditional use permit					C-2	
<u>20.36.040</u>	Shoreline variance					C-2	
<u>12.08.130</u>	Wetland exemptions	A-1					
<u>12.11.040</u>	Floodplain development permit	A-1					
	Title 16, Buildings and Construction						
<u>16.06.020</u>	Building and other construction permits	A-1					
<u>16.80.010</u>	Canopies	A-1					
<u>16.12.070</u>	Fences	A-1					
<u>16.12.070</u>	Fence variances			A-3			
<u>16.01.010</u>	Land disturbing activity permit	A-1					
<u>16.40.040</u>	Mobile home installation permit	A-1					
<u>14.06.140</u>	Sewer permit	A-1					
<u>13.08.010</u>	Sidewalk construction permit	A-1					
<u>16.10.010</u>	Temporary dwelling permit	A-1					
<u>14.06.390</u>	Wastewater discharge (also from state DOE)	A-1					
	Title 17, Design and Construction Standards, and Development Guidelines and Public Works Standards (DGS)						
<u>17.08</u>	Acceptance of public improvement						C-3
<u>17.08.050</u>	Dedication of public easements and rights-of-way						C-3
<u>DGS 4.07(C)</u>	Frontage improvement exceptions						C-3
<u>DGS 4.21</u>	Light standards	A-1					
	Modification of public improvement requirement						C-3
<u>DGS 2.02</u>	Major variances of Development Guidelines and Public Works Standards						C-3
<u>DGS 2.02</u>	Minor variances of Development Guidelines and Public Works Standards	A-1					
<u>DGS 2.01</u>	Right-of-way use permits	A-1					
	Title 18, Subdivisions						
<u>18.34.040</u>	Boundary line adjustment	A-1					
<u>18.34.040</u>	Boundary line adjustment, non-conforming lots						C-3
	Binding site plans						
<u>18.36.060</u>	Preliminary binding site plans					C-2	
<u>18.36.090</u>	Final binding site plan amendments						C-3
<u>18.36.070</u>	Adjustments (minor) to binding site plan approved plans	A-1					
<u>18.36.070</u>	Adjustments (not minor) to binding site plan approved plans					C-2	

Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
	Short subdivisions (short plats)						
<u>18.32.070</u>	Preliminary short subdivisions		A-2				
<u>18.32.080</u>	Final short subdivisions						C-3
<u>18.32.100</u>	Amendments (minor) to unrecorded short plats	A-1					
<u>18.32.100</u>	Amendments to approved or recorded final short plats						C-3
	Subdivisions (long plats)						
<u>18.16.020</u>	Preliminary subdivisions (long plats)					C-2	
<u>18.16.030</u>	Final subdivisions						C-3
	Amendments to approved (not recorded) preliminary plats					C-2	
RCW <u>58.17.215</u>	Amendments to approved (recorded) final plats (alteration of recorded plat)						C-3
	Title 19, Zoning						
<u>19.06.030</u>	Comprehensive plan amendments				C-1		
<u>19.08.070</u>	Administrative interpretation	A-1					
<u>19.20.010</u>	Commercial height modification		A-2				
<u>19.40.120</u>	Conditional use permits, zoning code					C-2	
<u>19.50.040(1)</u>	Design review, major ^c						C-3
<u>19.50.040(2)</u>	Design review, minor ^c			A-3			
<u>19.52</u>	Development code text amendments				C-1		
<u>19.32.050</u>	Home occupation Type A with minor impact	A-1					
<u>19.32.060, 19.40</u>	Home occupation Type B with potential impacts					C-2	
<u>19.34.020</u>	Mobile home parks					C-2 ^a	
<u>19.30.060</u>	Sign permit	A-1					
<u>19.33</u>	Site plan reviews (commercial/industrial)					C-2	
	<i>Site plan review, administrative</i>		A-2				
<u>19.33.090</u>	Site plans amendment commercial/industrial/multifamily					C-2	
<u>19.33.090</u>	Site plans – technical adjustment	A-1					
<u>19.52</u>	Rezones, legislative				C-1		
<u>19.52</u>	Rezones, site-specific					C-2 ^a	
	Planned unit developments (PUDs)					C-2 ^a	
	• PUD amendments					C-2 ^a	
	• PUD amendments – technical adjustment	A-1					
<u>19.25.090</u>	^b Telecommunication facilities (collocation)	A-1					
<u>19.25.110</u>	^b Telecommunication macro facilities, waiver, or variance					C-2	
<u>19.25.170</u>	^b Telecommunication – Eligible facility requests	A-1					
<u>19.25A.</u>	^b Telecommunication – small cell facilities;	A-1					
<u>19.30.210</u>	Variances, sign code			A-3			
<u>19.40.020</u>	Variances, zoning					C-2	

^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.

^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. **[NOTE: This refers to the new design ordinance. The existing code sections are 19.50.050 and 19.51.051.]**

20.12 Exemptions.

20.12.010 Purpose.

The purpose of this chapter is to identify permit processes that are not subject to notice requirements.

20.12.030 Exemptions to this title.

- (1) A permit determined to be exempt from this chapter shall be exempt from the following provisions of this title unless otherwise specified:
 - (a) Determination of complete application;
 - (b) Notice of application;
 - (c) Optional consolidated project permit processing;
 - (d) Joint public hearings;
 - (e) Staff reports;
 - (f) Notice of decision; and
 - (g) Time requirements.
- (2) The following permits are exempt from the provisions of this title unless otherwise specified in this code:
 - (a) Type A-1 Administrative Permits. Pursuant to RCW 36.70B.140(2), Type A-1 permits include lot line or boundary adjustments, building and other construction permits, or similar administrative approvals.
 - (b) Type A-3 reviews. Type A-3 reviews are permits that need an advisory review by a committee or a commission and a decision by the planning commission. They include design review and fence variances. No notice is required for advisory reviews.
 - (c) SEPA determinations and processes executed under BMC 12.04.
- (3) Legislative decisions. The following legislative decisions are not subject to the procedures in this title:
 - (a) Landmark designations;
 - (b) Street vacations;
 - (c) City of Buckley comprehensive plan adoption and amendments;
 - (d) Municipal code amendments (zoning code text, development regulations and zoning district amendments);
 - (e) Area-wide rezones to implement city policies contained within the city of Buckley comprehensive plan and all amendments;
 - (f) Annexations; and
 - (g) All other master land use and utility plans and all amendments.
- (4) The administrative procedures for the legislative decisions specified in this section are set forth coordinately by adopted ordinances. Nothing in this chapter or the permit processing procedures shall limit the authority of the city to make changes to the Buckley comprehensive plan, as part of an annual revision process, or to the city's development regulations, or to undertake any other legislative actions.

20.16 Pre-application conferences.

20.16.010 Purpose.

- (1) The purpose of the pre-application conference is to familiarize the applicant with the requirements of the Buckley Municipal Code and allow the director or designee to provide the applicant with preliminary comments based upon the applicant's preliminary concept of the proposal.
- (2) The information is designed to be general in nature to give the applicant enough information to decide whether the proposal is feasible.
- (3) Pre-application conferences should include information on the requirements for a complete application.
- (4) Pre-application conferences are required for site plan reviews required under BMC 19.33.
- (5) Pre-application conferences are required for subdivisions and short plats, and may be performed after application submittal at the choice of the applicant.
- (6) Pre-application conferences may be performed for any project if requested by the applicant, with permission from the property owner.

20.16.020 Vesting.

A pre-application conference doesn't vest an application.

20.16.030 Assurances unavailable.

- (1) It is impossible for the pre-application conference to be an exhaustive review of all potential issues.
- (2) The discussions at the conference or the forms provided by the city to the applicant under this section shall not bind or prohibit the city's future application or enforcement of all applicable law and ordinances.
- (3) No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of city, state, and federal codes, laws, regulations and land use plans.

20.16.040 Scheduling.

Final drawings are discouraged at the pre-application stage; at a minimum, the submittal materials must include the following:

- (1) A completed pre-application request form and fee;
- (2) Permission from the land owner for the pre-application to occur.
- (3) A preliminary sketch or conceptual design that illustrates the applicant's generalized ideas of the proposal. The sketch or conceptual design shall include:
 - (a) Approximate lot lines.
 - (b) General topography of the site.
 - (c) All access roads and driveways serving the site including both public and private.
 - (d) Driveways and access routes around and opposite the site shall be shown.
 - (e) Proposed vehicle and pedestrian access to the site.
 - (f) Proposed utilities.
 - (g) All land uses on adjacent properties.

20.16.050 Pre-application conference.

- (1) City staff, including the building official, city administrator, public works director, city engineer, city attorney, police chief, and fire chief, all as deemed necessary by the director, shall attend the pre-application conference as scheduled by the director to discuss the application to the land development proposal under consideration of codes, ordinances, regulations and policies administered by that department, including any recommendation for referral for plan review to the International Conference of Building Officials, if appropriate for a complex proposal.
- (2) The director shall preside at the pre-application conference and shall make a list of the approvals and permits required for the land development proposal as identified by the department heads.
- (3) At or subsequent to the conference the director shall provide the applicant with:
 - (a) A summary that lists the requirements for a complete application;
 - (b) A summary of the procedures to be used to process the application;
 - (c) References to relevant code provisions or development standards that may apply to the processing or approval of the application.
 - (d) Information on all applicable application fees.
- (4) The applicant shall submit the application for the proposal within a year after the pre-application conference.

20.16.060 Consecutive pre-application conferences.

An applicant may request additional pre-application conferences.

20.20 Processes for all project permit applications.

20.20.010 Purpose.

The purpose of this chapter is to list items that are common to all project permit applications.

20.20.020 Determination of Director.

- (1) The director shall determine the proper procedure for all development applications.
- (2) If there is a question as to the appropriate type of procedure, the director shall resolve it in favor of the higher procedure type letter as defined in BMC 20.08.030.
- (3) The director's determination is an A-1 decision.

20.20.030 Consolidation.

Project permit applications shall be consolidated into one project file if requested by the applicant in accordance with BMC 20.24.020.

20.20.040 Application Forms.

Applications for project permits shall be submitted upon forms provided by the director.

20.20.050 Submittal Requirements.

A project permit application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

- (1) A completed project permit application form;
- (2) A SEPA checklist if required by the SEPA official.

- (3) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the affected property. A photocopy of the property deeds shall be provided;
- (4) A property and/or legal description of the site, as required by the applicable development regulations;
- (5) The applicable fee;
- (6) A site plan, showing the proposal, points of access and utilities, and identifying all easements, deeds, restrictions, or other encumbrances restricting the use of the property, if applicable;
- (7) For all permits that require public notices, assessor's maps and a list of tax parcels and their owners for all properties within 300 feet of the property and properties to which public notice must be sent as provided in BMC 20.28.080.
- (8) Any supplemental information or special studies identified by staff, together with the pre-application notes for A-2 and C-2 permits;
- (9) In addition to requirements of this section, complete application requirements for the land use permits set forth in other chapters of the Buckley Municipal Code;
- (10) For A-2 and C-2 permits, a statement indicating how the project will not reduce transportation levels of service within the time required by RCW 36.70B.040.
- (11) A statement verifying the project's likely consistency with city codes, and the goals and policies of the comprehensive plan.

20.20.060 Submittal requirements waived.

The director may waive specific submittal requirements determined to be unnecessary for review of an application. In such event, the director shall document the waiver in the project file or project log.

20.20.070 Time requirements.

The director shall issue a notice of final decision for project permit applications within 120 days of the issuance of the determination of completeness pursuant to BMC 20.28.040; provided, that the time period for issuance of a notice of final decision on a preliminary plat and preliminary short plat shall be 90 days and for a final plat or final short plat 30 days to the extent that these shorter time periods are mandated by state law and only if those applications have not been returned to the applicant for further information. Plat applications returned for further information shall have their notices of final decision issued within 120 days subject to the exclusions identified below.

- (1) In calculating the 120-day period for issuance of the notice of final decision, the following periods shall be excluded:
- (2) Any period during which the applicant has been requested by the director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the director notifies the applicant of the need for additional information until the earlier of the date the director determines that the additional information provided satisfies the request for information, or 14 days after the date the additional information is provided to the city;

- (a) If the director determines that the information submitted is insufficient, the applicant shall be informed of the particular insufficiencies and the procedures set forth in this subsection for calculating the exclusion period shall apply;
 - (b) Any period during which an environmental impact statement (EIS) is being prepared pursuant to Chapter 43.21C RCW. The time period for preparation of an EIS shall be governed by Chapter 43.21C RCW;
 - (c) Any period for consideration and issuance of a decision for administrative appeals of project permits, which shall be not more than 90 days for open record appeals and 60 days for closed record appeals, unless a longer period is agreed to by the director and the applicant;
 - (d) Any remand to the planning commission, hearing examiner or director;
 - (e) Any period during which the applicant has failed to pay any applicable fees or deposits after having been notified of such by the city shall be excluded from the time period in this chapter;
 - (f) Any extension of time mutually agreed to by the director and the applicant.
- (3) If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.
- (4) The time limits established in this title do not apply if a project permit application:
- (a) Requires an amendment to the comprehensive plan or a development regulation;
 - (b) Requires siting approval of an essential public facility as provided in RCW 36.70A.200; or
 - (c) Is substantially revised by the applicant, in which case the time period shall start from the date that a determination of completeness for the revised application is issued by the director pursuant to BMC 20.28.070 and RCW 36.70B.070.
- (5) All hearing examiner decisions shall be issued within ten working days as required by RCW 35A.63.170.

20.20.080 Action on Project Permit Applications.

A decision or recommendation on a project permit application shall include one of the following actions:

- (1) Approve;
- (2) Approve with additional conditions;
- (3) Modify, with or without the applicant's concurrence; provided, that the modifications do not:
 - (a) Enlarge the area or scope of the project unless the increase is due to added mitigation;
 - (b) Increase the density or proposed building size; or
 - (c) Significantly increase adverse environmental impacts;
- (4) Deny without prejudice (reapplication or resubmittal is permitted);
- (5) Deny with prejudice (reapplication or resubmittal is not allowed for one year); or
- (6) Remand for further proceedings and/or evidentiary hearing in accordance with BMC 20.20.090.

20.20.090 Remand.

A hearing may only be re-opened upon remand if consistent with the one hearing rule of the Regulatory Reform Act, Chapter 36.70B RCW. In the event the decision maker in an administrative appeal or upon receipt of a recommendation for a project permit application

determines that the administrative record or decision or recommendation of the lower review authority is insufficient, inadequate or otherwise flawed for the reasons identified below, the decision maker may remand the matter back to the lower or proper review authority issue revised or additional findings of fact and conclusions of law. Remand is available upon a showing of:

- (1) Improper authority as a review authority or grounds for disqualification of those taking the agency action;
- (2) Unlawfulness of procedure or of decision-making process;
- (3) Mistake of material facts or errors in law; or
- (4) Incomplete record.

20.20.100 Reconsideration.

An applicant, the City or a party to a public hearing or closed record appeal may seek reconsideration of a recommendation or a decision of a review authority on a project permit application by filing a written request for reconsideration with the community development department within 10 calendar days following issuance of the written recommendation or final decision.

- (1) All requests for reconsideration shall state specific errors of facts or law.
- (2) The review authority shall consider the request and may schedule argument and/or briefing on the reconsideration request.
- (3) A decision upon reconsideration may be revised to correct for errors in law or material fact or as otherwise necessary to avoid invalidation of the decision or recommendation.
- (4) A decision or recommendation is not final until after a decision on the reconsideration request has been issued.
- (5) Additional evidence may only be admitted for a reconsideration request as authorized under the one hearing rule of the Regulatory Reform Act, Chapter 36.70B RCW.
- (6) Decisions on reconsideration requests issued by the hearing examiner or other review authorities who do not have regularly scheduled meetings shall be issued within ten working days of the date the record is closed on the reconsideration request.
- (7) Decisions upon reconsideration issued by review authorities with regularly scheduled meetings shall be issued by the next regularly scheduled meeting after the reconsideration request has been reviewed unless additional time is necessary upon a showing of good cause, such as lack of a quorum.
- (8) Recommendations in staff reports to any review authority shall not be subject to reconsideration.

20.20.110 Notice.

Permits that require notices are listed in the table in BMC 20.08.030.

20.20.120 Appeals.

All permits can be appealed in accordance with the table in BMC 20.08.030.

20.24 Projects requiring two or more permit applications – optional consolidation.

20.24.010 Consolidation option.

A project that involves two or more project permit applications may be subject to a consolidated project permit review process as established in this chapter. The applicant may determine whether the applications shall be processed collectively or individually. If the applications are processed under the individual procedure option, the highest type procedure must be processed prior to the subsequent lower procedure.

20.24.020 Consolidated permit processing.

- (1) When project permits are consolidated, the permit procedures of the project permit with the highest permit type shall apply to all of the consolidated project permit applications.
- (2) All project permits being reviewed through the consolidated permit review process shall follow at least the requirements of BMC 20.28.050, 20.28.070, and 20.28.120; and
- (3) A single report stating all the decisions made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record pre-decision hearing and any recommendations on project permits that do not require an open record pre-decision hearing.
 - (a) The report shall state any mitigation required or proposed under the development regulations or the agency's authority under RCW 43.21C.060.
 - (b) The report may be the local permit.
 - (c) If a threshold determination other than a determination of significance has not been issued previously by the local government, the report shall include or append this determination. (RCW 36.70B.060(5))

20.24.030 Public hearing for consolidated applications.

The review process shall provide for no more than one consolidated open record hearing and one closed record appeal. If an open record pre-decision hearing is provided prior to the decision on a project permit, the process shall not allow a subsequent open record appeal hearing.

20.24.040 Decision-maker(s).

Applications processed in accordance with subsection (2) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s) to the extent consistent with state law. The order of decision making authority, from highest to lowest is city council, hearing examiner, and staff.

20.24.050 Consolidation with the other government agencies.

The city is also authorized to consolidate project review with the permit procedures of other government agencies. Joint public hearings with other agencies shall be processed as follows:

- (1) The director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:
 - (a) The hearing is held either within the city limits; and
 - (b) The requirements of subsection (3) of this section are met.
- (2) The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

- (3) A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:
 - (a) The other agency is not expressly prohibited by statute from doing so;
 - (b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and
 - (c) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing.
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20.28 Notices.

20.28.010 Purpose.

- (1) The purpose of this chapter is to identify notice requirements for all permit applications that require notices as identified in Table 1 of Section 20.08.030.

20.28.020 Identification of interested parties and other agencies with jurisdiction.

For permits that require a notice of application and/or a public hearing, following shall apply:

- (1) The applicant shall supply with its application a list and associated map of all property owners, as listed by the Pierce County Assessor's Office, within 300 feet of the property boundaries of the property identified in the proposal.
 - (a) If the proposal is contiguous to property owned by the applicant or more than one property is involved in the proposal, the 300 feet shall be drawn from the exterior boundary of the combined parcels.
- (2) To the extent known by the city, other agencies that may have jurisdiction over some aspect of the project permit application shall be identified in the city's determination of complete application, and included in the list of property owners within 300 feet of the proposed project.

20.28.030 Optional additional public notice.

- (1) In addition to the notice requirements of this chapter the city may require or perform one or more of the following optional methods of providing public notice of any project permit are authorized for projects that the Director determines may be of significant public interest:
 - (a) Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;
 - (b) Notify the news media;
 - (c) Place notices in appropriate regional or neighborhood newspapers or trade journals;
 - (d) Publish notice in agency newsletters or send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas;
 - (e) Mail to potentially affected property owners; and
 - (f) Place notices on the Internet.
- (2) The city's failure to provide the optional notice as described in this section shall not be grounds for invalidation of any permit decision.

20.28.040 Determination of complete application.

A project permit application is complete for the purposes of this chapter when it meets the submission requirements contained in in this title and the submission requirements contained in the applicable development regulations.

- (1) Within 28 days after receiving a project permit application, the city shall mail a determination to the applicant which states either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.
- (2) A project permit application shall be deemed complete under this chapter if the city does not provide a written determination to the applicant that the application is incomplete within 28 days of receiving the application. Notwithstanding a failure to provide a determination of complete application, the city may request additional information throughout review of the proposal.
- (3) The city's determination of complete application shall not preclude the city from requiring additional information, that the applicant correct plans or perform studies at any time if new information is required for project review, or if there are substantial changes in the proposed action.
 - (a) If additional information is required during the review process, the applicant shall have 90 days to submit the necessary information to the city.
 - (b) If the applicant either refuses in writing to submit additional information or does not submit the required information within the 90-day period, the director shall determine that the application is abandoned and is therefore withdrawn, according to the procedures of a Type A-1 action. The determination shall be in writing and shall identify the right to appeal.
 - (c) In those situations where the director deems an application withdrawn because the applicant fails to submit the required information within the necessary time period, the applicant will forfeit the application fee.

20.28.050 Incomplete application.

- (1) If the applicant receives a determination from the city that an application is not complete, the applicant shall submit the required information within 90 days to the city.
- (2) Within 14 days after an applicant submits the required information, the city shall determine whether the application is complete or incomplete.
 - (a) After submittal of material, if the city deems the application to be still incomplete, another determination of incomplete application shall be issued.

20.28.060 Notice of application.

- (1) Within 14 days after the date an application is determined to be complete, the review authority shall issue a Notice of Application containing the information required in BMC 20.28.070.
- (2) The Notice of Application shall be distributed and publicized as required by BMC 20.28.080 at least 15 days prior to any open public hearing on the application.

20.28.070 Contents of the notice of application.

Modification to this section may be in the individual chapter requiring the permit or notice, such as shorelines.

- (1) The notice of application shall include:
 - (a) The name of the applicant or applicant's representative and the case file number for the application;
 - (b) The date of application, the date of the determination of complete application for the application and the date of the notice of application;
 - (c) The street address location of the project or, if unavailable, the location in reference to roadway intersections;
 - (d) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under this code;
 - (e) The identification of other permits required by other agencies with jurisdiction not included in the application, to the extent known by the city;
 - (f) The identification of existing environmental documents that evaluate the proposed project and the location where the application and any studies can be reviewed;
 - (g) The name of the city staff contact and telephone number;
 - (h) A statement of the limits of the public comment period, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights.
 - (i) The public comment period shall not be less than 14 days nor more than 30 days following the date of the notice of application.
 - (i) The date, time, place and type of hearing, if applicable and scheduled at the date of the notice of application;
 - (j) A statement of the preliminary determination of consistency with applicable development regulations and the Buckley comprehensive plan, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and determination of consistency as provided in RCW 36.70B.040;
 - (k) Any other information determined appropriate by the city, such as the city's pending SEPA threshold determination or a statement advising that a final environmental determination shall be made following a comment period;
- (2) If a local government has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application;
- (3) A statement that the final decision on the application will be made within the certain time period established by this title.

20.28.080 Distribution of Notice of Application.

Notices of Application required by Table 1 of BMC 20.08.030 shall be distributed and publicized as follows:

- (1) Posting the property for site-specific proposals shall consist of one or more notice boards posted by the applicant or the applicant's representative. A single notice board shall be placed by the applicant at the midpoint of the site street frontage or as otherwise directed by the city for maximum visibility and where it is completely visible to pedestrians and vehicle traffic.
 - (a) Additional notice boards may be required when:
 - (i) The site does not abut a public road;

- (ii) A large site abuts more than one public road;
 - (iii) The director determines that additional notice boards are necessary to provide adequate public notice; or
 - (iv) The city may also require notices to be posted in conspicuous places visible on the site or in the vicinity of a proposed action at least 10 days before the close of the comment period.
- (b) Notice boards shall be:
- (i) Maintained in good condition by the applicant during the notice period;
 - (ii) In place at least 30 days prior to the date of pre-decision hearing; and
 - (iii) Removed by the applicant within 15 calendar days after the end of the notice period.
 - (iv) An affidavit of posting shall be submitted to the director by the applicant prior to the hearing or final comment date. If the affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application will be postponed in order to allow compliance with this notice requirement. Notice boards shall be constructed and installed in accordance with specifications promulgated by staff.
- (2) The notice of application shall be published in the city's official newspaper of general circulation. Published notice shall include at least the project's street address or location, project description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed.
- (3) The notice of application shall be mailed to:
- (a) The applicant and the applicant's representative;
 - (b) Owners of property within a radius of 300 feet of the edge of the property that is the subject of the application:
 - (i) As required by BMC 20.20.050, the applicant shall provide the city with self-addressed, stamped envelopes and a list of adjacent property owners. This list may be created or verified by the city planning department;
 - (ii) Failure of a property owner to receive notice does not invalidate the decision if the notice was sent; a sworn certificate of mailing executed by the person who did the mailing shall be conclusive evidence that notice was mailed to parties listed or referenced in the certificate; and
 - (iii) Other people the review authority believes may be affected by the proposed action or who request such notice in writing.
- (4) Notice of the filing of a preliminary plat application of a proposed subdivision located adjoining the city's municipal boundaries shall be given to the appropriate county officials.
- (5) Notice of the filing of a preliminary plat application of a proposed subdivision located adjacent to the right-of-way of a state highway shall be given to the Secretary of the Washington State Department of Transportation, who must respond within 15 days of such notice.
- (6) Upon acceptance of a complete application, the director shall transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those agencies responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have 15 days following the date of the notice of application to comment. The director may grant an extension of time if needed.

- (7) Department shall maintain for public review a list of pending projects (public inspection files), including project status. However, the failure by the department to maintain and update the project status list shall not be grounds for invalidation of any permit decision.

20.28.090 Notice of public hearing.

Open record public hearings required by Table 1 of BMC 20.08.030 are subject to the notice requirements of this section and Section 20.28.100. A notice of a public hearing shall be mailed, posted and first published not less than 15 days prior to the hearing date. Notice of the public hearing shall be in accordance with BMC 20.28.100.

20.28.100 Content of a notice of public hearing.

- (1) The notice given of a public hearing required in this title shall contain:
- (a) The name and address of the applicant or the applicant's representative;
 - (b) Description of the affected property, including the street address (if any) and either a vicinity location sketch (including roadway intersections) or written description, other than a legal description, reasonably sufficient to inform the public of the location;
 - (c) The date, time and place of the hearing;
 - (d) The hearing body;
 - (e) A description of the nature of the proposed use or development and file number(s), if applicable;
 - (f) A statement that all interested persons may provide oral or written comments or testimony at the hearing;
 - (g) Where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be submitted;
 - (h) The name of the city staff contact or representative and the telephone number where additional information may be obtained;
 - (i) That a copy of the application and staff report, and all documents and evidence relied upon by the applicant and applicable criteria, are available for inspection at the department at no cost.
- (4) General Procedure for Mailed Notice of Public hearing.
- (a) For all public hearings required by this title, mailed notice shall be provided to all owners of property located within 300 feet of the property lines of the project site. The applicant shall provide the city with self-addressed, stamped envelopes and a list of all such adjacent landowners. This list may be created or verified by the city planning department. The director shall issue a sworn certificate affirming the mailing of notice to all persons entitled to notice under this title. The director may provide notice to other persons than those required to receive notice under the title.
 - (b) For all public hearings required by this title, mailed notice shall also be provided to all persons who submitted written comments on the application and provided a mailing address.
 - (c) All public notices shall be deemed to have been issued three days after mailing or on the date then notice is personally delivered.
- (5) Procedure for posted or published notice of public hearing.
- (a) Posted notice of the public hearing is required for all Type C-1 and C-2 project permit applications. The posted notice shall be posted as required by this title.

- (b) Published notice is required for all public hearings required by this title. The published notice shall be published in the city's official newspaper.
- (6) An additional notice of the hearing may be given to adjacent property owners by any other reasonable method the city deems necessary.
- (7) Time and Cost of Notice of Public hearing.
 - (a) Notice of a public hearing shall be mailed, posted and first published not less than 14 days prior to the hearing date. Any posted notice shall be removed by the applicant within 14 days following the public hearing.
 - (b) All costs associated with the public notice shall be borne by the applicant.
- (8) As optional methods of providing notice of public hearing, the city may notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered.

20.28.110 Notice of decision.

- (1) The city shall provide a notice of decision that includes the following information:
 - (a) The application information
 - (b) The decision
 - (c) A statement of any threshold determination made under SEPA (Chapter 43.21C RCW)
 - (d) The procedures for administrative appeal, if any
 - (e) The right that the affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.
- (2) The notice of decision shall be provided to the Pierce County assessor, to the applicant, and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application, or as required by another section of code.

20.32 Appeals.

20.32.010 Purpose.

- (1) The purpose of this chapter is to identify administrative appeal procedures for city decisions after the decision is final.
- (2) Applicants or other parties of interest who may be aggrieved by a decision are authorized to appeal decisions.
- (3) Appeals of hearing examiner decisions on shoreline permits shall follow the processes identified in RCW 90.58.180 and WAC 173-27-100 and contain the information required in 20.32.020.

20.32.020 Contents of the appeal.

The appeal shall be in writing and contain a concise statement identifying:

- (1) The decision being appealed (file name, file number);
- (2) The name and address of the appellant and his/her interest(s) in the matter;
- (3) The specific reasons why the appellant believes the decision to be wrong. The appellant bears the burden to prove the decision wrong;
- (4) The desired outcome or changes to the decision; and
- (5) The appeal fee.

20.32.030 Filing.

- (1) The filing and content requirements of appeals subject to city review in this chapter shall be considered jurisdictional. Failure to strictly comply with filing and content requirements shall result in dismissal of the appeal.
- (2) The appeal shall be delivered to the planning department by mail or personal delivery, and must be received no later than 4:00 p.m. on the last business day of the appeal period, with the required appeal fee.
- (3) BMC 20.08.030 Table 1 identifies final decisions appealable to superior court. In lieu of superior court, some appeals of final decisions are required by state law to be filed in other forums. The appellant bears the responsibility of filing an appeal in the proper forum and no assurances are made as to the accuracy of the forums designated by this Title.

20.32.040 Appeal procedures.

Notices for non-judicial appeal hearings shall be published in the newspaper, posted in the city's official posting places, and delivered to the appellant, applicant and all parties of record no less than 15 days before the appeal hearing is to be scheduled

- (1) Appeals shall be conducted in accordance with the rules of procedure of the designated hearing body and shall serve to provide argument and guidance for the hearing body's decision.
- (2) Administrative interpretations and administrative decisions may be appealed to the appeal authority designated in BMC 20.08.030, Table 1, by applicants or parties of record within 14 days from the date of the decision.
- (3) Administrative appeals shall be limited to the grounds for appeal identified in the filed appeal.
- (4) Parties to an appeal shall be limited to the appellant, applicant and city unless intervention for good cause is authorized by the review authority.

20.32.050 Appeal decisions.

The decision following an appeal hearing shall include one of the following actions:

- (1) Grant the appeal in whole or in part.
- (2) Deny the appeal in whole or in part.
- (3) Remand for further review.

20.36 Shoreline permits.

20.36.010 Submittal requirements.

- (1) The administrator shall determine the appropriate permit type and provide the necessary application forms for shoreline substantial development, conditional use, and variance permits, per Chapter 173-27 WAC and the city's Shoreline Master Program (SMP). The applicant shall provide, at a minimum, the following information **both digitally and on paper**:
- (2) Each type of activity on the shoreline requires specific submittal requirements to ensure the permit meets the Shoreline Management Act (SMA) and the city's SMP. In addition to the criteria in SMP 7.2.1, the basic application for each permit shall contain the following:

- (a) Completed application form for the proposed use.
- (b) An owner/agent agreement to work on the land (for projects on city land, this could be in the form of council minutes from the meeting at which the permission was given, or written permission from the mayor.
- (c) If a pre-application conference was conducted, a copy of the pre-application letter from the city.
- (d) An environmental checklist for review under the State Environmental Policy Act.
- (e) Environmental reports that meet the requirements of the SMP Appendix B for the following, as appropriate:
 - (i) Floodplains and/or floodways adjacent to the proposed activity;
 - (ii) National-Wetland-Inventory-mapped wetlands within 300 feet of the proposed activity; and/or
 - (iii) Known or reported wetlands within 300 feet of the proposed development.
- (f) Fees for any required city of Buckley building and land use permit applications, land use actions and agreements shall be as set forth in the fees, fines and rate schedule established by resolution of the city council.
- (g) A map of and the names and addresses of all real property owners within 300 feet of property where development is proposed (north and south of the river).
 - (i) Using the map and list, submit three sets of addressed envelopes using the city's return address.
- (h) An 11 x 17 aerial of properties within 1,000 feet of the project area and a brief description of the general nature of all improvements and land uses in this area, north and south of the river.
 - (i) Source, composition, and volume of fill material;
 - (j) Composition and volume of any extracted materials, and identify proposed disposal area;
 - (k) If the development proposes septic tanks, evidence that the proposed development complies with local and state health regulations;
- (3) Each application shall provide a site plan, drawn to scale that shows project details on one or more sheets and shall include:
 - (a) A vicinity map drawn to a scale of four inches equals one mile and of sufficient detail to orient the location of the development area, with names of streets and other landmarks, and a north directional arrow.
 - (i) Indicate site location using natural points of reference (section lines, roads, state highways, prominent landmarks, etc.);
 - (ii) If the development involves the removal of any soils by dredging or otherwise, identify the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the disposal site within the city and/or its distance to the nearest city or town;
 - (b) The site boundary as represented in the associated legal description, and include the following:
 - (i) Property dimensions in vicinity of project;
 - (ii) Ordinary high water mark;
 - (iii) Shoreline designation according to the master program.
 - (iv) Any associated wetlands and/or floodplain and/or floodways within 300 feet of the development area.

- (c) Using the definitions for “height” and “average grade level” from WAC 173-27, show the following:
 - (i) Existing ground and/or bathymetric elevation;
 - (ii) Proposed ground and/or bathymetric elevation;
 - (iii) Height of existing structures; and
 - (iv) Proposed height of existing structures;
 - (v) Where appropriate, proposed land and bathymetric contours using two-foot intervals in water area and on areas landward of OHWM, if development involves grading, cutting, filling, or other alteration of land contours;
 - (vi) Typical cross-section or sections;
 - (d) Dimensions and location of existing structures that will be maintained;
 - (i) Dimensions and locations of proposed structures, parking and landscaping;
 - (ii) Details of fill, grade, or dredge areas;
 - (e) Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas, and electricity;
- (4) Additional information determined by the city to be necessary for the adequate review of the proposal shall be supplied within 90 days of the request.

20.36.020 Permit types and procedures.

- (1) Almost all development within the shoreline is subject to the requirements of the Shoreline Management Act (SMA) and the City' Shoreline Master Program (SMP), regardless of whether a substantial development permit is required, and likely requires written permission by the city, except for emergency repairs that may be performed after verbal agreement by the city, applicant, and the state before a permit is obtained.
- (2) Permissions to develop or place uses within shoreline jurisdiction include the following:
 - (a) Exemptions, exceptions, and exclusions:
 - (i) Exemptions are listed in SMP 7.2.2 and within the Shoreline Management Act’s definition of substantial development in RCW 90.58.030(3)(e). The city may place conditions on exemptions and follow a Type A-1 process, as described in Title 20, as amended by this chapter. If a proposal is exempted from a Shoreline substantial development permit, but requires another shoreline permit(s), only the decision criteria for the other shoreline permit(s) will be used in the project’s review and approval.
 - (ii) Exceptions follow a Type A-1 process, as described in Title 20, but require no application. Exceptions may be approved by letter or email to the Department of Ecology and the applicant. No conditions can be required, but conditions may be suggested that would make the exception meet the city’s Shoreline Master Program.
 - (iii) Because of the uses associated with exclusions, exclusions do not need to meet the Shoreline Management Act or Shoreline Master Program.
 - (b) Shoreline Substantial Development Permits follow a Type A-2 process as described in Title 20, as amended by this chapter.
 - (i) Substantial development shall not be undertaken within shoreline jurisdiction unless a shoreline substantial development permit is obtained; and
 - (ii) The appeal period has been completed; and
 - (iii) Any appeals are resolved and/or the applicant is given permission to proceed by the proper authority.
 - (c) Shoreline Conditional Use Permits follow a Type C-2 process as described in Title 20, as amended by this chapter.

- (d) Shoreline Variances follow a Type C-2 process, as described in Title 20, as amended by this chapter.
- (e) All decisions shall be in writing.
- (4) The Department of Ecology and the Attorney General’s Office shall be notified of permit decisions after the local appeal periods expire.
- (5) The Department of Ecology shall review the decision submitted by the city for Department approval, approval with conditions, or denial, as provided in WAC [173-27-200](#). Ecology’s final decision shall be issued to the city and the applicant within 30 days of the date the city’s decision was submitted to the Department.
- (6) When an applicant desires to revise a permit, the applicant must submit detailed plans and text describing the proposed changes. If the administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC [173-27-100](#), the administrator may approve the revision.
 - (a) Revisions to permits under WAC [173-27-100](#) may be authorized after original permit authorization has expired: Provided, That this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
 - (b) Local government shall notify the department in writing of any change to the effective date of a permit with an explanation of the basis for approval of the change. Effective dates may be changed as authorized by RCW [90.58.143](#). Any change to the time limits of a permit other than those authorized by RCW [90.58.143](#) as amended shall require a new permit application.

20.36.030 Permit processes, general.

- (1) Shoreline permit decisions shall be processed and be subject to the applicable regulations provided under the Shoreline Management Act (SMA) and the City’s Shoreline Master Program (SMP).
- (2) The burden of proving that a proposed development is consistent with the approval criteria and master program policies and regulations shall be the applicant’s.
- (3) Decision criteria include all applicable items listed in the SMP and the SMA.
 - (a) Decision criteria in the SMP are found in Chapters SMP 3 through SMP 6.
 - (b) Decision criteria in the SMA are found in WAC [173-27-140](#) through [-210](#).
 - (c) Decisions shall be consistent with Buckley Municipal Code requirements.
- (4) Each permit issued by the city shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of filing with the Department of Ecology, per WAC [173-27-190](#).
- (5) Any decision on an application for a shoreline permit or revision, whether it is an approval or a denial, shall first be sent to the applicant and parties of record by way of a notice of decision, as outlined in Title 20.
 - (a) The Notice of Decision shall be mailed to the Attorney General Office and the Washington State Department of Ecology by mail, return receipt requested.
 - (b) After the local appeal period is over or the local appeals are decided, the final decision packet containing all items listed in WAC [173-27-130\(3\)](#) shall be sent to the Department of Ecology by return receipt requested mail.
 - (c) “Final decision by local government” shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

20.36.040 Shoreline substantial development permits, variances and conditional uses permits.

- (1) Shoreline substantial development permits are required for all substantial development that does not qualify as exempt, excepted or excluded from shoreline regulations.
 - (a) Review criteria for SSDPs are found in Sections 173-27-140, and -150, and the SMP.
- (2) Provisions concerning shoreline variances and shoreline conditional uses should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.
 - (a) Review Criteria for Shoreline Conditional Use Permits (SCUP) are governed by WAC 173-27-140, 160, 200, and 210, and SMP 7.2.4. SCUPs can allow greater flexibility in applying use regulations. In authorizing SCUPs, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use.
 - (i) Development, including uses that need an SCUP is listed in the Shoreline Master Program under SMP Table 6-1 in Chapter 6.
 - (b) Variance review criteria are governed by WAC 173-27-170, and -200, and SMP 7.2.5. Two basic types of variances exist: one landward of the Ordinary High Water Mark and one waterward of the Ordinary High Water Mark. Each has its own set of decision criteria.
 - (i) Variances are to allow development within the shoreline jurisdiction that requires modified dimensional or bulk standards required by the SMP because the lot has unique conditions on the project site.
 - (ii) Variances are not permitted for wetlands.
- (4) Conditions may be imposed upon development by SSDP, SCUP and Variance decisions as necessary to achieve compliance with applicable permit review standards.

20.36.050 Notices required.

Each permit for a shoreline substantial development, shoreline conditional use, or shoreline variance issued by the city shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW [90.58.140](#)(6) and WAC [173-27-130](#), or until all review proceedings initiated within 21 days from the date of such filing have been terminated; except as provided in RCW [90.58.140](#) (5)(a) and (b).

- (1) Shoreline permits shall require the notices as required for A-2 and C-2 permits, with the following additional criteria:
 - (a) Notices of application for shoreline permits also require the following:
 - (i) A statement that the comment period shall be 30 days following the date of the notice of application.
 - (ii) In addition, the notice shall state that any person may comment on the application, receive notice, and participate in any hearings, request a copy of the decision, and appeal rights.
 - (iii) A list of project permits included in the application.
 - (iv) A list of any studies requested under RCW 36.70B.070, 36.70B.090 and WAC 173-27-180 or environmental documents that evaluate the proposal and the location of these documents for the public to review.

- (v) If an open record pre-decision hearing is required, the notice of application shall be provided at least 30 days prior to the hearing.
- (b) Notice for determinations under the State Environmental Policy Act shall be as required in BMC 12.04.
- (c) Notices of decision shall be provided as required in Title 20, BMC to all parties of record, as defined in WAC 173-27-030(12), with the following additional information:
 - (i) The notice shall state the approval date and the date by which the activity shall be commenced.
 - (ii) The notice shall state the date five years from the approval date by which the development or activity shall be completed.
 - (iii) The notice shall state the city's shoreline administrator may extend either or both dates by one year each based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the Department of Ecology.
 - (iv) The notice shall state the effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6).

20.36.060 Time requirements.

The following time requirements shall apply to all permits:

- (1) In accordance with SMP 7.2.1.I, construction, use, or activity shall commence within two years after the approval of the permits.
- (a) Substantial progress shall include all of the following where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or, where no construction is involved, commencement of the activity.
- (2) Permit authorization shall terminate five years after permit approval.
- (3) The city may authorize a single one-year extension before the end of the either time period mentioned in (1) or (2) of this section, with prior notice to parties of record and the Department of Ecology, for up to one year based on reasonable factors.
- (4) The running of a permit time period shall not include the time during which an activity was not actually pursued due to the pendency of reasonably related administrative appeals or litigation or development of an EIS.
- (5) When permit approval contains conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity; provided, that an alternative compliance limit may be specified in the permit.

20.36.070 Appeals.

- (1) Appeal of administrative decisions shall follow the direction in Title 20.
- (2) Appeal of hearing examiner decisions shall follow the processes identified in RCW 90.58.180 and WAC 173-27-100.

Section 3. Amendment. At least the following sections are corrected to remove the term "Chapter 20.01" or a specific section in Chapter 20.01 to "Title 20":

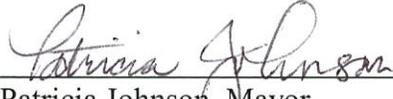
1.12.210(4), 2.33.010(4), 3.50.085(5), 13.35.080, 13.35.300, 14.30.920, 16.06.120(18), 16.24.040, 18.08.010, 18.38.010, 19.06.020(2), 19.08.070, 19.12.487, 19.20.010(2)(a), 19.23.090, 19.24.040, 19.29.050, 19.30.270, 19.33.040, 19.33.070, 19.40.110, 19.40.210, 19.56.050,

Section 4. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

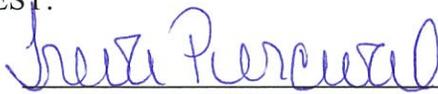
Section 6. Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Buckley City Council this 13th day of August, 2019.



Patricia Johnson, Mayor

ATTEST:

By: 

Treva Percival, City Clerk

APPROVED AS TO FORM:

By: 

Phil Olbrechts, City Attorney

PUBLISHED: August 21, 2019

EFFECTIVE: August 26, 2019