

## Chapter 20.22

### PERMITTING AND DEVELOPMENT APPROVAL – PERMIT PROCESS TYPES

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**20.22.010 Classification.**

The review and approval of land use and development permit applications shall be classified as either Type I, II, III, IV, or V based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. The types of decisions are set forth in this chapter. The application procedures identified in this chapter shall be pursuant to Chapter 20.24 POMC.

**20.22.020 Determination of types – Table.**

(1) Determination of Proper Decision Type. The director shall determine the proper review procedure for all land use and development permit applications and actions. If there is a question as to the appropriate type of process, the director shall resolve it in favor of the higher process type number.

(2) Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If the individual procedure option is chosen, the applicant will be eligible for any fee reduction contained in the current fee schedule.

**Table 20.22.020 – Permit Review Type Classifications**

| <b>Type I<br/>Director Decision<br/>Judicial Appeal</b>   | <b>Type II<br/>Director Decision<br/>HE Appeal</b>  | <b>Type III<br/>HE Decision<br/>Judicial Appeal</b>   | <b>Type IV<br/>City Council<br/>Decision<br/>Judicial Appeal</b>   | <b>Type V<br/>City Council<br/>Decision<br/>GMHB Appeal</b>                              |
|---|---|---|--|--|
| Building Permit <sup>1</sup><br>(Subtitle X of this title)<br>Binding Site Plan,<br>Final (Chapter<br>20.94 POMC) | Short Plat,<br>Preliminary,<br>Alteration of<br>Preliminary,<br>Alteration of Final,<br>Vacation of Final | Preliminary Plat,<br>Preliminary Plat<br>Major<br>Modifications,<br>Alteration of Final,<br>Vacation of Final | Final Plat (Chapter<br>20.90 POMC)<br>Site-Specific<br>Rezone without<br>Comprehensive<br>Plan Amendment | Development<br>Agreement<br>(Chapter 20.26<br>POMC)<br>Comprehensive<br>Plan Amendment – |

| <b>Type I<br/>Director Decision<br/>Judicial Appeal</b>   | <b>Type II<br/>Director Decision<br/>HE Appeal</b>  | <b>Type III<br/>HE Decision<br/>Judicial Appeal</b>  | <b>Type IV<br/>City Council<br/>Decision<br/>Judicial Appeal</b> | <b>Type V<br/>City Council<br/>Decision<br/>GMHB Appeal</b>  |
|---|---|--|--|--|
| Preliminary Plat – Minor Modifications (Chapter 20.88 POMC)<br>Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100)<br>Boundary Line Adjustment (Chapter 20.84 POMC)<br>Code Interpretation (Chapter 20.10 POMC)<br>Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC)<br>Sign Permit (if SEPA not required) (Chapter 20.132 POMC) | (Chapters 20.86 and 20.96 POMC)<br>Temporary Use Permit (Chapter 20.58 POMC)<br>Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC)<br>Stormwater Drainage Permit (Chapter 20.150 POMC)<br>Sign Permit (if SEPA required) (Chapter 20.132 POMC)<br>Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC) | (Chapters 20.88 and 20.96 POMC)<br>Variance (Chapter 20.28 POMC)<br>Conditional Use Permit (Chapter 20.50 POMC)<br>Shoreline Substantial Development Permit, Conditional Use Permit, and Nonadministrative Variance (Chapter 20.164 POMC)<br>Planned Residential Developments<br>Comprehensive Sign Design Plan Permits<br>Final Plat – Alteration or Vacation (Chapter 20.96 POMC)<br>View Protection Overlay District (VPOD) Variance (POMC 20.38.713) | (Chapter 20.42 POMC)   | Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC)<br>Legislative Zoning Map Amendment (Chapter 20.06 POMC)<br>POMC Title 20 Code Amendment (Chapter 20.06 POMC)<br>Annexations |
| Sign Variance (Chapter 20.132 POMC)<br>Shoreline Permit Exemption (Chapter 20.164 POMC)<br>Temporary Use Permit, Extension (Chapter 20.58 POMC)   | Variance – Administrative (Chapter 20.28 POMC)  |  |  |  |

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.38.228), tax exemption for multifamily development (Chapter 3.48 POMC),

capacity reservation certificate (Chapter 20.180 POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

<sup>1</sup> If a building permit application does not require SEPA review, no public notice is required. If a building permit application requires SEPA review, public notice shall be provided consistent with the requirements for Type II applications pursuant to Chapter 20.25 POMC.

**20.22.030 Type I (administrative decision, judicial appeal).**

(1) General. Type I applications are defined pursuant to POMC 20.22.020. All Type I actions must meet all applicable requirements of the POMC in addition to the requirements specified in this subtitle.

(2) Preapplication Conference. Type I applications do not require a preapplication conference.

(3) Notice of Application. Type I applications do not require a notice of application, unless environmental review is required under SEPA pursuant to Chapter 20.160 POMC.

(4) Review of Application.

(a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.

(b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, deny, or approve with conditions all Type I applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.

(5) Decision.

(a) Unless a permit type has been excluded from the 120-day permit decision timeline established in POMC 20;24.100, pursuant to RCW 36.70B.140, all Type I applications are subject to the maximum 120-day timeline, but in most cases review may be complete within a much shorter time period. If no correction cycles are required, review should be complete within approximately 30 calendar days from the date of technical completeness. Correction cycles will extend review time in proportion to the time the city must wait for an applicant to submit additional or corrected information.

(b) The decision of the director may be reflected on the plans or permit itself or may be documented in a written report or letter of approval.

(6) Notice of Decision. Public notice of a Type I decision is not required. The applicant shall be notified in writing or by email that the permit is ready to issue or the application is approved.

(7) Administrative Appeal. There is no administrative appeal of a Type I decision except for decisions that are appealable to the building board of appeals in accordance with this title and the International Codes as adopted by the city.

(8) Judicial Appeal. A Type I decision not appealable to the building board of appeals may be appealed directly to superior court.

**20.22.040 Type II (administrative decision, hearing examiner appeal).**

(1) General. Type II applications are defined pursuant to POMC 20.22.020. All Type II applications must meet all applicable requirements of the POMC in addition to the requirements specified below.

(2) Preapplication Conference. Type II actions are required to participate in a preapplication conference pursuant to POMC 20.24.010. A limited preapplication conference may be allowed for projects that do not require substantial review by other departments such as variances and design review without SEPA or street improvement requirements.

(3) Notice of Application. Type II applications require a notice of application pursuant to Chapter 20.25 POMC.

(4) Review of Application.

(a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.

(b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, approve with conditions, or deny all Type II applications. Conditions may be imposed directly on the plans (red-lining), through other documentation reflected on the plans, or in a written staff report or other decision document, to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.

(5) Public Hearing. No public hearing is required for Type II decisions.

(6) Decision. Type II decisions are subject to the maximum 120-day timeline requirement pursuant to POMC 20.24.100. A decision for a Type II action shall be made in writing by the director and shall include the following information:

- (a) A description of the proposal and a listing of permits or approvals included in the application;
- (b) A statement of the applicable criteria and standards in this code and other applicable law;
- (c) A statement of background information and facts relied upon by the department which show the application does or does not comply with the approval criteria;
- (d) A summary of public comment received and how the department or applicant responded to the public comments or concerns; and
- (e) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

(7) Notice of Decision. Public notice of a Type II decision shall be provided pursuant to POMC 20.24.100. Notice of a short plat or binding site plan shall be provided in the same manner as notice of application as set forth in Chapter 20.25 POMC.

(8) Administrative Appeal. A Type II decision, except for shoreline substantial development permits and shoreline variances, may be appealed to the hearing examiner within 14 calendar days of the notice of decision. A decision on a shoreline substantial development permit or shoreline variance may be appealed to the State Shorelines Hearings Board pursuant to Chapter 20.164 POMC. Shoreline appeal procedures and information are available from the department or from the State Department of Ecology. Administrative appeals of director decisions to the hearing examiner are to be made on forms provided by the city and shall include the following information:

- (a) A brief statement regarding how the appellant is significantly affected by or interested in the matter appealed;
- (b) A specific clear and comprehensible statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
- (c) The specific relief requested, such as reversal or modification; and
- (d) Signature, address, and phone and fax number of the appellant, and name and address of appellant's designated representative, if any.

(9) Judicial Appeal. The decision of the hearing examiner on a Type II appeal may be appealed to superior court.

**20.22.050 Type III (hearing examiner decision, judicial appeal).**

(1) General. Type III applications are defined pursuant to POMC 20.22.020. All Type III applications must meet all applicable requirements of the POMC in addition to the requirements specified below.

(2) Preapplication Conference. Type III applications are required to have a preapplication conference pursuant to POMC 20.24.010.

(3) Notice of Application. Type III applications require a notice of application pursuant to Chapter 20.25 POMC.

(4) Review of Application.

(a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.

(b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing examiner. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.

(c) If a director recommendation is not available to the hearing examiner as provided in this section, the hearing examiner may reschedule or continue the hearing upon his or her own motion or upon

the motion of a party, or the hearing examiner may decide the matter without the recommendation.

(d) The director's recommendation, and any additional staff reports, shall be consistent with RCW 36.70B.060(5).

(5) Public Hearing. A Type III action requires an open record hearing before the hearing examiner.

(a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.

(b) The director's recommendation shall be made available on the date the hearing notice is issued.

(c) SEPA appeals for Type III decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5).

(d) The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.

(e) The public hearing shall be conducted pursuant to the hearing examiner's adopted rules and procedures and shall be recorded on audio or audiovisual tape. The hearing examiner may remand an application to staff at his or her discretion to allow staff to administratively address an issue or irregularity with the application or the processing thereof.

(6) Decision.

(a) A written decision for a Type III action shall be issued by the hearing examiner within 14 calendar days after the date the record closes, unless the applicant has consented in writing to an extension of this time period. The hearing examiner's decision shall include the following information:

(i) A description of the proposal and a listing of permits or approvals included in the application;

(ii) A statement of the applicable criteria and standards in the municipal code and other applicable law;

(iii) A statement of background information and facts relied upon by the hearing examiner which show the application does or does not comply with the approval criteria and standards;

(iv) A summary of public testimony and public comment received and how the department or the applicant responded to the public testimony and public comments; and

(v) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

(b) Notice of Decision. Public notice of a Type III decision shall be provided pursuant to POMC 20.24.100.

(7) Reconsideration.

(a) The hearing examiner may reconsider a Type III decision if a written request for such administrative appeal is filed by a party of record within 14 calendar days of the date of the notice of decision. Grounds for requesting reconsideration shall be limited to the following:

(i) The decision or conditions of approval are not supported by facts in the record;

(ii) The decision contains an error of law;

(iii) There is newly discovered evidence potentially material to the decision which could not reasonably have been produced prior to the open record pre-decision hearing; or

(iv) The applicant proposes changes to the proposal in response to deficiencies identified in the decision.

(b) Any request for reconsideration shall be mailed to all parties of record on the same day as the request is mailed or delivered to the hearing examiner.

(c) A request for reconsideration shall stop the running of the judicial appeal period on a Type III decision for seven calendar days. During this time period, the hearing examiner shall decide whether reconsideration is appropriate. If the hearing examiner decides to reconsider the decision, the judicial appeal period will be placed on hold until the reconsideration process is complete and a new decision is issued. If the hearing examiner decides to reconsider a decision, all parties of record shall be notified.

(d) The hearing examiner shall, by order, set a schedule for other parties of record to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days following the due date for submittal of written responses. A new judicial appeal period shall commence from the date of the hearing examiner's decision on reconsideration.

(8) Judicial Appeal. Type III decisions, except shoreline conditional use permits and any associated shoreline permits, may be appealed to superior court. Shoreline decisions are appealable to the State Shorelines Hearings Board.

**20.22.060 Type IV (city council decision, judicial appeal).**

(1) General. Type IV applications are defined pursuant to POMC 20.22.020. All Type IV applications must meet all applicable requirements of the POMC in addition to the requirements specified below.

(2) Preapplication Conference. Type IV applications are required to have a preapplication conference pursuant to POMC 20.24.010.

(3) Notice of Application. Type IV applications require a notice of application pursuant to Chapter 20.25 POMC.

(4) Review of Application.

(a) The director shall commence review of the permit application pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.

(b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing body. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.

(c) If a SEPA determination of nonsignificance (DNS) is issued for the proposal, the DNS will be issued in conjunction with the director's recommendation to the hearing body.

(d) Within 14 calendar days of holding a public hearing, the hearing body shall issue a recommendation on the application to the city council.

(5) Public Hearing. A Type IV action requires an open record hearing for a recommendation before either the hearing examiner or planning commission, pursuant to the requirements of the individual permit application requirements.

(a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.

(b) The director's recommendation shall be made available on the date the hearing notice is issued.

(c) SEPA appeals for Type IV decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5). The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.

(d) The public hearing shall be conducted pursuant to the hearing body's adopted rules and procedures and shall be recorded on audio or audiovisual tape.

(6) Decision. Following receipt of a recommendation from the hearing body, the city council shall approve, approve with conditions, or deny a Type IV application by ordinance.

(7) Administrative Appeal. There is no administrative appeal of Type IV decisions.

(8) Judicial Appeal. A Type IV decision may be appealed to superior court.

#### **20.22.070 Type V (legislative actions).**

(1) General.

(a) Type V actions are defined pursuant to POMC 20.22.020. All Type V proposals are legislative actions, but not all legislative actions are Type V decisions. Legislative actions involve the creation, amendment, or implementation of policy or law by ordinance. In contrast to other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens.

(b) Type V actions are not subject to the application procedures in Chapter 20.24 POMC, unless otherwise specified.

(2) Public Hearing.



(a) The planning commission shall hold a public hearing and make recommendations to the city council on Type V actions. A notice for the public hearing shall be provided pursuant to POMC 20.25.050.

(b) The city council may hold a public hearing on Type V actions prior to passage of an ordinance or entry of a decision.

(c) The planning commission and/or city council may require more than one public hearing for Type V actions.

(d) Notice of a public hearing shall be provided to the public at least 14 calendar days prior to the hearing by publishing notice as provided for in POMC 20.25.050. In addition to publishing notice and posting notice at City Hall, at least 14 calendar days prior to the hearing the city shall mail notice of the public hearing to the applicant, relevant government agencies, and other interested parties who have requested in writing to be notified of the hearing. If the legislative action is for a comprehensive plan amendment, notice of the public hearing shall also be posted and mailed pursuant to Chapter 20.04 POMC. The city may also provide optional methods of public notice as provided in Chapter 20.25 POMC.

(3) Review. Review of Type V actions shall be pursuant to the applicable POMC chapter for each action.

(4) Decision. The city council shall issue a final decision on all Type V actions by passage of an ordinance.

(5) Appeals. A Type V decision may be appealed to the Growth Management Hearings Board pursuant to the regulations set forth in RCW 36.70A.290.

(6) Legislative Enactments Not Restricted. Nothing in this section, chapter, or Chapter 20.24 POMC shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of a regular revision process, or to make changes to the city's municipal code.