



Legislation Text

File #: 2009-0173, **Version:** 2

Clerk 06/15/2009

AN ORDINANCE relating to providing notice of applications; and amending Ordinance 13147, Section 21, as amended, and K.C.C. 20.18.050, Ordinance 12196, Section 10, as amended, and K.C.C. 20.20.030, Ordinance 12196, Section 13, as amended, and K.C.C. 20.20.060, Ordinance 12196, Section 16, as amended, and K.C.C. 20.20.090 and Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060.

SECTION 1. Ordinance 13147, Section 21, as amended, and K.C.C. 20.18.050 are each hereby amended to read as follows:

A. Site-specific land use map amendments are legislative actions that may only be initiated by property owner application, by council motion, or by executive proposal. All site-specific land use map amendments must be evaluated by the hearing examiner before adoption by the council in accordance with this chapter.

1. If initiated by council motion, the motion shall refer the proposed site-specific land use amendment to the department of development and environmental services for preparation of a recommendation to the hearing examiner. The motion shall also identify the resources and the work program required to provide the same level of review accorded to applicant-generated amendments. An analysis of the motion's fiscal impact shall be provided to the council before adoption. If the executive determines that additional funds are necessary to complete the work program, the executive may transmit an ordinance requesting the appropriation of supplemental funds.

2. If initiated by executive proposal, the proposal shall refer the proposed site-specific land use

amendment to the department of development and environmental services for preparation of a recommendation to the hearing examiner.

3. If initiated by property owner application, the property owner shall submit a docketed request for a site-specific land use amendment. Upon receipt of a docketed request for a site-specific land use amendment, the request shall be referred to the department of development and environmental services for preparation of a recommendation to the hearing examiner.

B. All proposed site-specific land use map amendments, whether initiated by property owner application, by council motion, or by executive proposal shall include the following:

1. Name and address of the owner(s) of record;
2. Description of the proposed amendment;
3. Property description, including parcel number, property street address and nearest cross street;
4. County assessor's map outlining the subject property; and
5. Related or previous permit activity.

C. Upon initiation of a site specific land use map amendment, an initial review conference will be scheduled by the department of development and environmental services. The owner or owners of record of the property shall be notified of and invited to attend the initial review conference. At the initial review conference, the department will review the proposed amendment's consistency with applicable county policies or regulatory enactments including specific reference to comprehensive plan policies, countywide planning policies and state Growth Management Act requirements. The proposed amendment will be classified pursuant to K.C.C. 20.18.040 and this information either will be provided at the initial review conference or in writing to the owner or owners of record within thirty days.

D. If a proposed site-specific land use map amendment is initiated by property owner application, the property owner shall, following the initial review conference, submit the completed application including an application fee and an environmental checklist to the department of development and environmental services to

proceed with review of the proposed amendment.

E. If a proposed site-specific land use map amendment is initiated by council motion, following the initial review conference, the council shall submit an environmental checklist to the department of development and environmental services to proceed with review of the proposed amendment.

F. If a proposed site-specific land use map amendment is initiated by executive proposal, following the initial review conference, the executive shall submit an environmental checklist to the department of development and environmental services to proceed with review of the proposed amendment.

G. Following the submittal of the information required by subsections D., E. or F. of this section, the department of development and environmental services shall submit a report including an executive recommendation on the proposed amendment to the hearing examiner within one hundred twenty days. The department of development and environmental services shall provide notice of a public hearing and notice of threshold determination pursuant to K.C.C. 20.20.060(~~(F, G and H)~~)G., H. and I. The hearing will be conducted by the hearing examiner pursuant to K.C.C. 20.24.400. Following the public hearing, the hearing examiner shall prepare a report and recommendation on the proposed amendment pursuant to K.C.C. 20.24.400. A compilation of all completed reports will be considered by the council pursuant to K.C.C. 20.18.070.

H. A property-owner-initiated for a site-specific land use map amendment may be accompanied by an application for a zone reclassification to implement the proposed amendment, in which case administrative review of the two applications shall be consolidated to the extent practical consistent with this ordinance and K.C.C. chapter 20.20. The council's consideration of a site-specific land use map amendment is a legislative decision which will be determined before and separate from their consideration of a zone reclassification which is a quasi-judicial decision. If a zone reclassification is not proposed in conjunction with an application for a site-specific land use map amendment and the amendment is adopted, the property shall be given potential zoning. A zone reclassification pursuant to K.C.C. 20.20.020 will be required in order to implement the

potential zoning.

I. Site-specific land use map amendments for which a completed recommendation by the hearing examiner has been submitted to the council by January 15 will be considered concurrently with the annual amendment to the comprehensive plan. Site specific land use map amendments for which a recommendation has not been issued by the hearing examiner by January 15 will be included in the next appropriate review cycle following issuance of the examiner's recommendation.

J. No amendment to a land use designation for a property may be initiated unless at least three years have elapsed since council adoption or review of the current designation for the property. This time limit may be waived by the executive or the council if the proponent establishes that there exists either an obvious technical error or a change in circumstances justifying the need for the amendment.

1. A waiver by the executive shall be considered after the proponent has submitted a docket request in accordance with K.C.C. 20.18.140. The executive shall render a waiver decision within forty-five days of receiving a docket request and shall mail a copy of this decision to the proponent.

2. A waiver by the council shall be considered by motion.

SECTION 2. Ordinance 12196, Section 10, as amended, and K.C.C. 20.20.030 are each hereby amended to read as follows:

A.1.a. Except as otherwise provided in subsection A.1.b. of this section, ~~((P))~~ prior to filing a permit application for a Type 1 decision, the applicant shall contact the department to schedule a preapplication conference, which shall be held prior to filing the application, if the property will have five thousand square feet of development site or right-of-way improvements, the property is in a critical drainage basin, or the property has a wetland, steep slope, landslide hazard, erosion hazard, or coal mine on site. ~~((Exempt from this requirement are:~~

~~1-))~~ b. A preapplication conference is not required for a Type 1 decision for a single family residence and its accessory buildings~~((;~~

~~2.-(Θ))~~ or for other structures where all work is in an existing building and no parking is required or added.

2. Except as otherwise provided in this section, ((P)) prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a pre-application conference, which shall be held prior to filing the application(~~(, except as provided herein)~~).

B. The purpose of the pre-application conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The pre-application conference shall be scheduled by the department, at the request of an applicant, and shall be held in a timely manner, within thirty days from the date of the applicant's request. A project coordinator shall be assigned by the department following the pre-application conference. The director may waive the requirement for a pre-application conference if it is determined to be unnecessary for review of an application. Nothing in this section shall be interpreted to require more than one pre-application conference or to prohibit the applicant from filing an application if the department is unable to schedule a pre-application conference within thirty days following the applicant's request.

C. Information presented at or required as a result of the pre-application conference shall be valid for a period of one hundred eighty days following the pre-application conference. An applicant wishing to submit a permit application more than one hundred eighty days following a preapplication for the same permit application shall be required to schedule another preapplication conference.

~~((B-))~~ D. At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable county policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in K.C.C. 20.20.060(~~(G and))~~)H, and I.

SECTION 3. Ordinance 12196, Section 13, as amended, and K.C.C. 20.20.060 are each hereby amended to read as follows:

A. A notice of application shall be provided to the public for ~~((all))~~ land use permit applications ~~((requiring))~~ as follows:

1. Type 2, 3 or 4 decisions; ~~((or))~~
2. Type 1 decisions subject to SEPA; ~~((or K.C.C. 20.20.060J and K, under))~~ and
3. As provided in subsections K. and L. of this section.

B. Notice of the application shall be provided by the department within fourteen days following the department's determination that the application is complete. A public comment period of at least twenty-one days shall be provided, except as otherwise provided in chapter 90.58 RCW and RCW 58.17.215 with regards to subdivision alterations. The public comment period shall commence on the third day following the department's mailing of the notice of application as provided for in subsection ~~((G))~~ H of this section.

C. If the county has made a determination of significance ("DS") under chapter 43.21C RCW before the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

D. ~~((All required))~~ Unless the mailed notice of application is by a post card as provided in subsection E. of this section, the notice~~((s))~~ of application shall contain the following information:

1. The file number;
2. The name of the applicant;
3. The date of application, the date of the notice of completeness and the date of the notice of application;
4. A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;
5. A site plan on eight and one-half by fourteen inch paper, if applicable;

6. The procedures and deadline for filing comments, requesting notice of any required hearings and any appeal procedure;

7. The date, time, place and type of hearing, if applicable and scheduled at the time of notice;

8. The identification of other permits not included in the application to the extent known;

9. The identification of existing environmental documents that evaluate the proposed project; and

10. A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable county plans and regulations.

E. If mailed notice of application is made by a post card, the notice of application shall contain the following information:

1. A description of the project, the location, a list of the permits included in the application and any environmental documents or studies can be reviewed;

2. The name of the applicant;

3. The date of application, the date of the notice of completeness and the date of the notice of application;

4. If the department has made a decision or recommendation on the application, the decision or recommendation made;

5. The applicable comment and appeal dates and the date, time, place and type of hearing, if applicable;

6. A web site address that provides access to project information, including a site map and application page; and

7. The department contact name, telephone number and e-mail address;

F. Notice shall be provided in the following manner:

1. Posted at the project site as provided in subsections (~~(F and I)~~) G. and J. of this section;

2. Mailed by first class mail as provided in subsection ((G)) H. of this section; and
3. Published as provided in subsection ((H)) I. of this section.

((F-)) G. Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within fourteen days following the department's determination of completeness as follows:

1. A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing and shall be placed by the applicant:

a. at the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

b. five feet inside the street property line except when the board is structurally attached to an existing building, but a notice board shall not be placed more than five feet from the street property without approval of the department;

c. so that the top of the notice board is between seven to nine feet above grade; ((and))

d. where it is completely visible to pedestrians; and

e. comply with site distance requirements of K.C.C. 21A.12.210 and the King County road standards adopted under K.C.C. chapter 14.42.

2. Additional notice boards may be required when:

a. the site does not abut a public road;

b. a large site abuts more than one public road; or

c. the department determines that additional notice boards are necessary to provide adequate public notice;

3. Notice boards shall be:

a. maintained in good condition by the applicant during the notice period through the time of the final county decision on the proposal, including the expiration of any applicable appeal periods, and for decisions which are appealed, through the time of the final resolution of any appeal;

b. in place at least twenty-eight days before the date of any required hearing for a Type 3 or 4 decision, or at least fourteen days following the department's determination of completeness for any Type 2 decision; and

c. removed within fourteen days after the end of the notice period;

4. Removal of the notice board before the end of the notice period may be cause for discontinuance of county review until the notice board is replaced and remains in place for the specified time period;

5. An affidavit of posting shall be submitted to the department by the applicant within fourteen days following the department's determination of completeness to allow continued processing of the application by the department; and

6. Notice boards shall be constructed and installed in accordance with subsection ~~((F))~~ G. of this section and any additional specifications promulgated by the department under K.C.C. chapter 2.98, rules of county agencies.

~~((G-))~~ H. Mailed notice for a proposal shall be sent by the department within fourteen days after the department's determination of completeness:

1. By first class mail to owners of record of property in an area within five hundred feet of the site, but the area shall be expanded as necessary to send mailed notices to at least twenty different property owners;

2. To any city with a utility which is intended to serve the site;

3. To the state department of transportation, if the site adjoins a state highway;

4. To the affected tribes;

5. To any agency or community group which the department may identify as having an interest in the proposal;

6. Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice;

7. For preliminary plats only, to all cities within one mile of the proposed preliminary plat, and to all

airports within two miles of the proposed preliminary plat; and

8. In those parts of the urban growth area designated by the King County Comprehensive Plan where King County and a city have adopted either a memorandum of understanding or a potential annexation boundary agreement, or both, the director shall ensure that the city receives notice of all applications for development subject to this chapter and shall respond specifically in writing to any comments on proposed developments subject to this title.

~~((H.))~~ I. Notice of a proposed action shall be published by the department within fourteen days after the department's determination of completeness in the official county newspaper and another newspaper of general circulation in the affected area.

~~((F.))~~ J. Posted notice for approved formal subdivision engineering plans, clearing or grading permits subject to SEPA or building permits subject to SEPA shall be a condition of the plan or permit approval and shall consist of a single notice board posted by the applicant at the project site, before construction as follows:

1. Notice boards shall comport with the size and placement provisions identified for construction signs in K.C.C. 21A.20.120B;

2. Notice boards shall include the following information:

- a. permit number and description of the project;
- b. projected completion date of the project;
- c. a contact name and phone number for both the department and the applicant;
- d. a department contact number for complaints after business hours; and
- e. hours of construction, if limited as a condition of the permit;

3. Notice boards shall be maintained in the same manner as identified above, in subsection F of this section; and

4. Notice boards shall remain in place until final construction approval is granted. Early removal of the notice board may preclude authorization of final construction approval.

~~((F-))~~ K. Posted and mailed notice consistent with this section shall be provided~~((;))~~ to property owners of record and to the council district representative in which it is located~~((;))~~ for any proposed single-family residence in a higher density urban single family residential zone (R-4 through R-8) exceeding a size of ten thousand square feet of floor area as defined in the Washington State Uniform Building Code.

~~((K-))~~ L. Posted and mailed notice consistent with this section shall be provided to any property owner of record and to the council district representative in which is locating any application for buiding permits or other necessary land use approvals for the establishment of the social service facilities classified by SIC 8322 and 8361 and listed below, unless the proposed use is protected under the Fair Housing Act:

1. Offender self-help agencies;
2. Parole offices;
3. Settlement houses;
4. Halfway home for delinquents and offenders; and
5. Homes for destitute men and women.

SECTION 4. Ordinance 12196, Section 16, as amended, and K.C.C. 20.20.090 are each hereby amended to read as follows:

A. The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions and Type 1 decisions subject to SEPA, including the threshold determination, if any, the dates for any public hearings and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology and to agencies with jurisdiction if required by K.C.C. chapter 20.44, to the Department of Ecology and Attorney General as provided in chapter 90.58 RCW, to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments, and to property owners of record, as provided in K.C.C. 20.20.060~~((-G))~~H.

B. Except for shoreline permits which are appealable to the state Shorelines Hearings Board, all notices

of appeal to the hearing examiner of Type 2 land use decisions made by the director shall be filed as provided in K.C.C. 20.24.090.

SECTION 5. Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060 are each hereby amended to read as follows:

A. Notice of the time, place and purpose of a public hearing ~~((F))~~before the hearing examiner~~((J*))~~ on an open space or timberland application based on land in unincorporated areas of the county shall be given by one publication in the official county newspaper at least ten days before the hearing.

B. Notice of the time, place and purpose of a public hearing before the hearing examiner on an open space application based on land in unincorporated areas of the county shall be provided by the following methods at least thirty days before the hearing:

1. By the applicant posting the property included in the application with a sign provided at no charge by the department. The sign shall measure at least eighteen inches by twenty-four inches, and shall include the name of the applicant, the location of the subject property, the date, place and purpose of the public hearing, a reference to this section and a source for additional information. The applicant must provide a declaration or affidavit to the department confirming the posting and the department shall file the declaration or affidavit with the clerk of the council;

2. By the department by mailing notice in accordance with the standards provided for in K.C.C. 20.20.060.~~((G))~~H. 1, 5. and 6; and

3. By the clerk of the council by publishing notice in the official county newspaper and another newspaper of general circulation in the affected area.

SECTION 6. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

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