

Matrix of proposed amendments to BMC 20.02 Project Permits (Draft Chapter follows this matrix):

Zoning Code Chapter/Section (Bremerton Municipal Code)	Proposed Amendments Summary	Further Information
20.02 Project Permits	Discussed in January’s Workshop	
20.02.020 Definitions	Include definition on “Stand Alone Nonproject SEPAs”.	Please see attached BERK Consulting memorandum under the following section, BMC 20.04 , for further clarification on proposed amendments to this section.
20.02.030 General Provisions	Cited corresponding Bremerton Municipal Code (BMC) sections.	Provide clarification to the City and the applicants.
20.02.140 Appeals	Require consolidated appeal periods.	Please see attached BERK Consulting memorandum under the following section, BMC 20.04 for further clarification on proposed amendments to this section.

Chapter 20.02 PROJECT PERMITS

Sections:

- [20.02.010 PURPOSE AND INTENT.](#)
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- [20.02.110 NOTICE OF HEARING.](#)
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- [20.02.130 NOTICE OF DECISION.](#)
- [20.02.140 APPEALS.](#)
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- [20.02.170 PLANNED ACTIONS.](#)

20.02.010 PURPOSE AND INTENT.

- (a) Fundamental land use planning choices made in adopted Comprehensive Plans and development regulations shall serve as the foundation for project review. This chapter establishes how the City of Bremerton will process applications for project permits.
- (b) These procedures provide for an effective processing and review of permits consistent with Chapter [36.70B](#) RCW. This chapter is applied in conjunction with Chapter [2.13](#) BMC (Administrative Hearing Examiner); Chapter [17.04](#) BMC (City Building Code); Chapter [20.04](#) BMC (State Environmental Policy Act); Chapter [20.12](#) BMC (Short Subdivisions and Plats); BMC Title [20](#), Division III; the Bremerton Shoreline Master Program; Chapter [20.14](#) BMC (Critical Areas); and other applicable codes making reference to this chapter.

20.02.020 DEFINITIONS.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"City" means the City of Bremerton.

"Closed-record appeal" means an administrative appeal on the record on a project permit application following an open-record hearing with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

"Days" means calendar days.

"Department" means Department of Community Development.

"Director" means the Director of the Department of Community Development of the City of Bremerton or his/her designee.

"Hearing body" means the City Council, Hearing Examiner or any other body designated by the City Council to preside over an open-record hearing or closed-record appeal.

"Hearing examiner" means the Administrative Hearing Examiner pursuant to Chapter [2.13](#) BMC.

"Open-record appeal hearing" means an open-record hearing held on an appeal when no open-record predecision hearing has been held on the project permit application.

"Open-record hearing" means a hearing that creates the City's record through testimony and submission of evidence and information, under procedures prescribed by the City by ordinance or resolution. An open-record hearing held prior to the City's decision shall be known as an "open-record predecision hearing."

"Parties of record" means:

- (1) The applicant;
- (2) The property tax payer as identified by the records available from the Kitsap County Assessor's Office;
- (3) Any person who testified at the open-record public hearing on the application; and/or
- (4) Any person who submitted written comments during administrative review or has submitted written comments concerning the application at the open-record public hearing (excluding persons who have only signed petitions or mechanically produced form letters).

"Project permit" or "project permit application" means any land use or environmental permit or license required from the City of Bremerton for a project action, including but not limited to building permits, site development permits, land use preparation permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, development plan review, site-specific rezones authorized by the Comprehensive Plan, but excluding adoption or amendment of the Comprehensive Plan and development regulations, zoning of newly annexed land, area-wide rezones, and zoning map amendments except as otherwise specifically included in this subsection.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision. A public meeting may include, but is not limited to, a design review meeting, a special committee meeting, such as the short subdivision committee, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open-record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the City's project permit application file.

"SEPA" means the State Environmental Policy Act and includes the provisions of Chapter [43.21C](#) RCW, Chapter [197-11](#) WAC and Chapter [20.04](#) BMC.

"Stand Alone Nonproject SEPA" means a non-exempt proposal involving a decision on policies, plans, or programs that requires SEPA review and that is not associated with Comprehensive Plan, development regulations, or areawide rezones subject to BMC 20.10, 20.18, and 20.58.050 respectively.

20.02.030 GENERAL PROVISIONS.

(a) General Exemptions. The following permits or approvals are exempt from the procedures set forth in this chapter:

- (1) Landmark designations;
- (2) Street vacations;
- (3) Right-of-way/street use permits;
- (4) Permits or approvals relating to the use of public areas or facilities;
- (5) Permits or approvals involving the location or development of essential public facilities or utilities;
- (6) Project permits not listed in this chapter which are categorically exempt from SEPA;
- (7) Legislative actions such as the adoption of or amendments to the Comprehensive Plan, subarea plans, area-wide map amendments, and development regulations. Such legislative actions are addressed in BMC 20.10, 20.18, and 20.58.050.

(b) Applicable Procedures. The Director shall determine the proper procedure for the processing of each project permit application pursuant to the provisions of this chapter. Disputes shall be resolved in favor of the higher category. Type I is considered the lowest and Type IV is the highest.

- (c) Standard Consistency. The City reviews proposals for consistency to applicable development regulations and the Comprehensive Plan. This determination includes consideration of the following:
- (1) The type of land use permitted, including uses that may be permitted under certain circumstances, provided the criteria for their approval is satisfied;
 - (2) The density of development allowed such as units per acre or other measures of density;
 - (3) Availability and adequacy of infrastructure, which includes public facilities and services identified in the Comprehensive Plan; and
 - (4) Characteristics of the development such as development design standards.
- (d) Conflict with Other Regulations. When any provisions of this chapter conflict with provisions of other City regulations, ordinances or resolutions, the more restrictive shall apply.
- (e) Severability. If any part or provision of this chapter or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operations to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances.
- (f) General Notice Requirements. The available records of the Kitsap County Assessor's Office shall be used to determine the property tax payer of record. All notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to provide the public notice as described in this chapter shall not be grounds for invalidation of a decision on a permit.
- (g) Optional Public Notice. In addition to required public notice, the City may provide notice to other individuals or organizations interested or possibly affected by the proposal. Failure to provide optional public notice shall not be grounds for invalidation of a decision on a permit.

20.02.040 PROJECT PERMIT PROCESSING PROCEDURES.

Project permit applications are categorized as Type I, Type II, Type III or Type IV project permits. Permit processing procedures may include determination of completeness, notice of application, notice of public hearing and notice of decision. Applicable procedures for the processing of permits are pursuant to the following provisions:

- (a) Type I Project Permits. These are administrative decisions by the Director who may approve, conditionally approve or deny the application. They include permits categorically exempt from SEPA review or that have had SEPA review completed in connection with another application or permit. Type I project permit processing procedures are set forth in Table 040. Examples of Type I permits include administrative code interpretations, building/construction/demolition permits (SEPA exempt), final short subdivisions, permit revocations, etc.
- (b) Type II Project Permit. These are administrative decisions by the Director with limited public notice. The Director has the authority to approve, conditionally approve or deny the application. Type II project permit processing procedures are set forth in Table 040. Examples of Type II permits include administrative conditional use permits, short plats/binding site plans, site plan review (requiring SEPA), building/construction/demolition permits (requiring SEPA), stand alone nonproject SEPA, etc.
- (c) Type III Project Permit. These are Hearing Examiner decisions. The Hearing Examiner may approve, conditionally approve, or deny the application. Type III project permit processing procedures are set forth in Table 040. Examples of Type III permits include nonadministrative conditional use permits, preliminary formal subdivisions, variances, etc.
- (d) Type IV Project Permit. These are decisions by the City Council after a closed-record hearing. The City Council may approve, conditionally approve, modify and approve or deny the application. Type IV project permit processing procedures are set forth in Table 040. Examples of Type IV permits include site-specific rezones, final formal subdivisions, development agreements, vacation of subdivisions, etc.
- (e) Table 040 Permit Processing Procedures.

Application Type	Determination of Completeness	Notice of Application	Notice of Hearing	Notice of Decision
Type I Permit	No	No	No	No
Type II Permit	Yes	Yes	No	Yes
Type III Permit	Yes	Yes	Yes	Yes
Type IV Permit	Yes	Yes	Yes	Yes
Development Agreement	No	No	Yes	Yes
Final Subdivision ¹	No	No	No	No
Site Specific Rezone ²	Yes	Yes	Yes	Yes
Stand Alone Nonproject SEPA	No	No	No	No

1 The Hearing Examiner holds an open-record hearing for preliminary approval. The City Council makes a final decision at a public meeting; a second hearing is not required.

2 The Hearing Examiner holds an open-record hearing. The City Council holds a closed-record hearing for final approval.

20.02.050 PRESUBMITTAL APPLICATION CONFERENCE.

(a) Purpose. The purpose of the pre-application conference is to acquaint the applicant with the review procedures and applicable Bremerton Municipal Code provisions to the proposal. Type II, III and IV permits require a presubmittal application conference prior to submitting an application. Anyone choosing the consolidated permit process set forth in BMC [20.02.060](#) also requires a presubmittal submittal application conference. Only one (1) meeting is required for all project permit applications related to the same project action.

(b) Waiver. The Director may waive the requirement for a presubmittal application conference when a proposal is determined not to be of a size and complexity to require a detailed analysis.

(c) Submission. Presubmittal application conferences may be held at any time before an application is submitted. A completed form and related information in sufficient number of copies as determined by the Director are required. The information does not need to meet the submission requirement set forth in BMC [20.02.060](#).

(d) Timeline. The City shall hold the presubmittal application conference within thirty (30) days of the receipt of a completed request, unless the applicant agrees to an extension of this time in writing.

(e) Nonbinding. The presubmittal application conference is not intended to be an exhaustive review of all potential issues and the discussions shall not be binding or prohibit the enforcement of applicable laws. Failure to provide all pertinent information may prevent the City from identifying all of the issues or providing the most effective presubmittal application conference.

(f) Lapse of Time. If a time lapse of more than one (1) year occurs between a presubmittal application conference and the submission for permits, or if the Director determines the scope of the project has changed significantly from the presubmittal application conference, a new conference may be required.

20.02.060 SUBMISSION REQUIREMENTS.

- (a) Application Contents. An application submitted to the Department shall be in a manner determined by the Director. Unless specified otherwise, an application shall at least include the following:
- (1) A completed application form;
 - (2) A legal description of the property and associated tax account number(s);
 - (3) A vicinity map showing the location of the property including surrounding major streets, shorelines and other reference points;
 - (4) A site plan;
 - (5) When required, mailing labels containing the names and addresses of all owners of record of parcels within the notification radius;
 - (6) When required, SEPA checklist and/or other environmental documentation;
 - (7) Additional information required by the Director to support a decision on the application(s);
 - (8) The application fee(s) for the permit(s) requested as set forth in Chapter [3.01](#) BMC or by other applicable rule or regulation.

20.02.070 VESTING.

A project permit application shall vest in the land use regulations in effect on the land at the time of submission of a completed project permit application as defined herein and all application fees are paid.

20.02.080 OPTIONAL CONSOLIDATED PERMITTING PROCESS.

- (a) An application which involves two (2) or more permits or procedures may have the processes consolidated under the highest project permit classification and procedures. The applicant shall request if they want their permit processes consolidated or if they want each permit processed individually.
- (b) If a project involving two (2) or more permits has the permits processed individually, the highest project permit classification and procedures shall be finalized before subsequent permits can be issued. The Director may waive this requirement for permits not dependent on the higher classification of permit for their justification or implementation.
- (c) If applicable, a single open-record hearing and no more than one (1) closed-record appeal shall be provided on a consolidated review process. The consolidated process may combine an open-record hearing on one (1) or more permits with an open-record appeal hearing on the other permits.

20.02.090 DETERMINATION OF COMPLETENESS.

When review procedures require a determination of completeness, the following shall apply:

- (a) Determination. Within twenty-eight (28) days of accepting the application, the Department shall provide a written determination to the applicant, stating that:
- (1) The application is complete; or
 - (2) The application is incomplete and what is necessary to make the application complete.

To the extent known, the City shall identify other agencies of local, state or federal governments that may have jurisdiction over some aspect of the application.

- (b) Failure to Notify. Failure to provide a written determination within the required time shall automatically deem the application complete.
- (c) Processing. A complete application meets the submission requirements set forth in BMC [20.02.060](#) and is sufficient for continued processing. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice or subsequently if new information is required or substantial changes in the proposed action occur. Should additional information be requested, the applicant shall have ninety (90) days from the date notified to submit the requested materials. Should the materials not be submitted within the time limits, the application shall lapse.

(d) Incomplete Application. An incomplete application shall have ninety (90) days from the date of the written determination in subsection (a)(2) of this section for the necessary information to be submitted. If the applicant either refuses in writing or does not submit the required information within the time limits, the application shall lapse.

(e) Review of Additional Information. When additional information for an incomplete application is received, the City shall notify the applicant within fourteen (14) days of receipt of the additional information whether the application is complete or what additional information is necessary.

(f) Review Timeline. Following the date an application is determined complete, the date shall be noted and the one hundred twenty (120) day official review period to render a decision shall begin.

20.02.100 NOTICE OF APPLICATION.

When review procedures require a notice of application, the following shall apply:

(a) Timeline. The notice shall be provided within fourteen (14) days after the determination of completeness is issued.

(b) Content. The notice of application shall include the following:

- (1) The file number assigned;
- (2) The date of application, date of the notice of completeness, and the date of the notice of application;
- (3) A description of the proposed project action and a list of permits included with the application and, if applicable, a list of requested studies;
- (4) Identification of known permits not included with the application;
- (5) Identification of existing environmental documents that evaluate the proposal;
- (6) The location where the application and any studies can be reviewed;
- (7) A statement of the public comment period and which shall not be less than fourteen (14) or more than thirty (30) days;
- (8) A statement of the rights of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision and any appeal rights;
- (9) Any other information determined appropriate by the City.

(c) Legal Notice. Notice shall be provided in the following manner as applicable:

- (1) Mail. The notice shall be sent by email, first class or higher mail to the following:
 - (i) The applicant;
 - (ii) Affected City departments;
 - (iii) State, federal and local agencies with jurisdiction;
 - (iv) For Type III permits, mailed notice shall also be sent to all property owners of real property (as shown by the records of the Kitsap County Assessor's Office) within three hundred (300) feet of the subject property. Where any portion of a property abutting the subject property is owned, controlled, or under the option of purchase by the applicant, all property owners within a three hundred (300) foot radius of the total ownership interest shall be notified; and
 - (v) Any person who requests such notice in writing to the Department.
- (2) Posting of the Property. Notice shall be posted according to the following:
 - (i) At least one (1) location on or adjacent to the subject property and that shall be clearly visible and legible from an adjacent street or public area;
 - (ii) The Director shall determine the specifications to the construction and installation of the notice boards.
- (3) Publishing Notice. A published notice in the City's official newspaper of general circulation within the City boundaries is required. The content shall include the following:
 - (i) Project location;
 - (ii) Project description;

- (iii) Type of permit(s) required;
 - (iv) Comment period and dates;
 - (v) Location where the complete application may be viewed.
- (d) Integration of Notices. The City will integrate the notice of application with SEPA review whenever possible. Notification for a notice of application should be combined with the notification for threshold determination and the scoping for a determination of significance whenever possible.
- (e) Issuance of Decisions. Except for a threshold determination, the City may not issue a decision or a recommendation on a permit until the expiration of the public comment period.
- (f) Public Comments. Comments shall be as specific as possible. Comments shall be received by the last day of the comment period specified in the notice. If no comments are received by the date specified in the notice from an affected City department or agency with jurisdiction, which notification was sent to, then it is presumed that the department or agency has no comments.

20.02.110 NOTICE OF HEARING.

When review procedures require a notice of hearing, the following shall apply:

- (a) Notice Integration. A notice of hearing is required for public hearings. A notice of hearing may be integrated with the notice of application.
- (b) Notice Content. A written notice of hearing shall contain the following information:
 - (1) The name of the applicant or designated contact;
 - (2) A description of the affected property (not including any legal description);
 - (3) Project summary/description of each project permit application;
 - (4) The application/project file number;
 - (5) The date, time and place of the hearing;
 - (6) A statement that all interested persons may appear and provide testimony;
 - (7) A statement where information may be examined or obtained and the staff contact and phone number;
 - (8) A statement how written testimony or comments may be submitted;
 - (9) The SEPA threshold determination along with any appropriate statement regarding any shared or divided lead agency status and phased review, and stating the end of any final comment period;
 - (10) The deadline (date, time and place) for submitting a SEPA appeal;
 - (11) A statement regarding any administrative appeal process including SEPA appeal.
- (c) Project Permit Notification. Notification for a hearing on a project permit shall be provided in the following manner as applicable:
 - (1) Mail. The notice shall be sent by email, first class mail or higher to the following:
 - (i) The applicant;
 - (ii) All property owners of real property (as shown by the records of the Kitsap County Assessor's Office) within three hundred (300) feet of the subject property. Where any portion of a property abutting the subject property is owned, controlled, or under the option of purchase by the applicant, all property owners within a three hundred (300) foot radius of the total ownership interest shall be notified;
 - (iii) Any person providing a written request to the Department.
 - (2) Preliminary Plat. When adjacent to the right-of-way of a state highway, or within two (2) miles of the boundary of a state or municipal airport, mailed notice shall be given to the Secretary of Transportation, who has fifteen (15) days to respond.
 - (3) Posting of the Property. The notice shall be posted in the same manner and location(s) as the notice of application set forth in BMC [20.02.100\(c\)\(2\)](#).

- (4) Publishing Notice. A published legal notice in the City's official newspaper of general circulation within the City boundaries is required. The content of the published notice shall include the following information:
- (i) Project location;
 - (ii) Project description;
 - (iii) Type of permit(s) required;
 - (iv) Comment period and dates;
 - (v) Location where the complete application may be viewed.
- (d) Notice Deadlines. Notice shall be given at least ten (10) days before the hearing date except:
- (1) Shoreline permits pursuant to WAC [173-27-110\(3\)](#) shall be given at least fifteen (15) days.
 - (2) An integrated notice of hearing and notice of application shall be given at least fifteen (15) days.
 - (3) An integrated notice of hearing and notice of a SEPA threshold determination shall be given at least fifteen (15) days.
- (e) Continuation of Hearing. Continued hearings do not require additional notices of hearing.
- (f) Appeal Notification. Notification for a hearing on an open-record or closed-record appeal shall be provided in the following manner:
- (1) Mail. The notice shall be sent by email, first class mail or higher to the following:
 - (i) The applicant/appellant;
 - (ii) Parties of record;
 - (iii) Affected agencies;
 - (iv) Parties requesting notice; and
 - (v) Other persons whom the Department believes may be affected by the action.
- (g) Additional Procedures. In addition to the procedures contained in this chapter, the Department may develop general procedures for notification, including mailing packets and the format of the notice and an affidavit of posting/ mailing form to be filled out by the party doing notice.

20.02.120 JOINT PUBLIC HEARING.

A hearing on a project permit application may be combined with any other hearing on the action held by another local, state, regional, federal, or other agency pursuant to RCW [36.70B.110](#) as currently enacted or hereinafter amended.

20.02.130 NOTICE OF DECISION.

The Director, the Hearing Examiner or the City Council issues a decision at the conclusion of applicable project permit review. The notice of decision may be included as part of the decision or project permit.

- (a) The City shall provide a notice of decision. The notice shall include a statement of any threshold determination made under SEPA and the procedures for appeal if a consolidated notice was not given under BMC [20.02.110\(d\)\(3\)](#).
- (b) Notification. Notification shall be provided in the following manner as applicable:
- (1) Mail. The notice shall be sent by email, first class mail or higher to the following:
 - (i) The applicant;
 - (ii) Any person who, prior to the rendering of the decision, requested notice of the decision in writing to the Department, or who submitted substantive comments on the application; and
 - (iii) Kitsap County Assessor's Office.
- (c) Notice Contents. The notice may include a copy of the report of decision on the project permit application; and shall include, when available, the SEPA threshold determination, the permit decision, the conditions of approval or where they may be viewed by the public, and the general procedures and time limits to file an appeal.

- (d) Change of Valuation. The notice shall state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.
- (e) Timelines. The notice shall be issued within one hundred twenty (120) days after the City notifies the applicant that the application is complete pursuant to BMC [20.02.090](#), except as follows:
- (1) The Director makes written findings that a specified amount of additional time is needed for processing the application; or
 - (2) A permit or approval involving the location or development of important public facilities or utilities, or related to the use of public areas or facilities, for public purposes may be excluded from the one hundred twenty (120) day time limit upon a determination of the Director that special circumstances warrant a longer process.
- (f) Extension of Timelines. If the City is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the parties of record. The notice shall include a statement of reasons why the time limits were not met, and an estimated date for issuance of the notice of decision.
- (g) Timeline Exclusion. The one hundred twenty (120) day time limit shall exclude any of the following:
- (1) Any period an applicant takes to provide additional information, perform studies or provide corrected plans requested by the City.
 - (2) Any period where the City determines that submitted information is insufficient or incorrect, and has requested the applicant provide the necessary information.
 - (3) Any period an environmental impact statement (EIS) is being prepared including scoping and preparing the draft and final EIS.
 - (4) Any period for administrative appeals and any period for reconsideration of decisions of the Hearing Examiner made on project permit applications. The period for consideration and decision on appeals shall not exceed:
 - (i) Ninety (90) days for an open-record appeal hearing; or
 - (ii) Sixty (60) days for a closed-record appeal.
 - (iii) The parties may agree to extend these periods.
 - (5) Any extension of time mutually agreed upon by the applicant and the City.
 - (6) All excluded periods are calculated from the date the City notifies the applicant to when the information satisfies the City's requirement.
 - (7) When the applicant submits the requested information, the City shall have fourteen (14) days to determine if it is satisfactory. If the information is not satisfactory, but the City fails to notify the applicant within the time limit, the information shall be deemed satisfactory.
 - (8) The time limits established in this section do not apply if a project permit application:
 - (i) Requires an amendment to the Comprehensive Plan or a development regulation; or
 - (ii) Requires approval of the location of an essential public facility as provided in RCW [36.70A.200](#); or
 - (iii) Is substantially revised by the applicant, in which case the period shall start from the date at which the revised project application is determined to be complete.
- (h) Liability. The City is not liable for damages due to the City's failure to make a final decision within the time limits established in this chapter.

20.02.140 APPEALS.

- (a) General.
- (1) Those land use and development decisions that are subject to appeal shall become final unless an appeal is filed within the designated time to file an appeal.
 - (2) The appellant shall bear the burden of proving the administrative decision was not supported by substantial evidence.

- (3) Appeal of Type I or Type II project permit final decisions shall be to the Hearing Examiner. Appeals shall be filed within fourteen (14) days following the issuance of the notice of decision. A decision involving a SEPA determination of nonsignificance which required public comments shall have the appeal period extended an additional seven (7) days.
- (4) Administrative appeal of a SEPA threshold determination on project permits is to the Hearing Examiner pursuant to Chapter [20.04](#) BMC and subsection (a)(3) of this section. The appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the Hearing Examiner consistent with RCW 36.70B, WAC 197-11-680 and BMC 20.02 and BMC 20.04.
- (5) Appeal of Type III or Type IV project permit final decisions shall be to Kitsap County Superior Court pursuant to Chapter [36.70C](#) RCW. Appeals shall be filed within twenty-one (21) days following the issuance of the notice of decision.
- (6) Final decision relating to the Bremerton Shoreline Master Program may be appealed as follows:
- (i) Director decisions and Type II shoreline permits may be appealed to the Hearing Examiner pursuant to subsection (a)(3) of this section or may be appealed directly to the Shoreline Hearings Board pursuant to RCW [90.58.180](#).
 - (ii) Hearing Examiner decisions may be appealed to the Shoreline Hearings Board by filing a petition for review within twenty-one (21) days of the date of filing pursuant to RCW [90.58.140](#)(6).
- (b) Standing to Appeal. Only parties of record with standing may initiate an appeal. Standing constitutes the following:
- (1) For Type I project permits, only the applicant has standing.
 - (2) For project permits not Type I, the following have standing:
 - (i) Applicant;
 - (ii) Anyone who participates in the public hearing; or
 - (iii) Anyone who submits written comments in response to a legal notice within the required time limits.
- (c) Filing an Appeal. Administrative appeals are filed by submitting a form provided by the Department. The appeal must be received by 5:00 p.m. on the last day of the appeal period. Appeals may be mailed, faxed or delivered to the Department.
- (d) Timing of Decisions.
- (1) An open-record appeal shall be decided within ninety (90) days from the date the complete appeal was filed.
 - (2) Should an occasion arise that would require a closed-record appeal hearing, such an appeal shall be decided within sixty (60) days.
- (e) Computation of Time. For purposes of computing the time for filing an appeal, the day the decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW [1.16.050](#) or by the City's ordinances as a legal holiday; then it also is excluded and the filing must be completed on the next business day.
- (f) Content of Appeal. An administrative appeal shall not be accepted unless it is written, accompanied by the required appeal fee, and contains at least the following information:
- (1) Appellant's name, address and phone number;
 - (2) Appellant's statement describing his or her standing, as a party of record, to appeal;
 - (3) Identification of the application which is the subject of the appeal;
 - (4) Statement of grounds for appeal and the facts upon which the appeal is based;
 - (5) Statement of the relief sought, including the specific nature and extent; and

- (6) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.
- (g) Effect. The timely filing of an administrative appeal shall stay the effective date of the decision until the appeal is either decided or withdrawn.
- (h) Notice of Appeal. The Director shall provide public notice of the appeal as provided in BMC [20.02.110\(c\)](#).

20.02.150 DESIGN REVIEW.

Buildings that are proposed for construction in areas having adopted design guidelines are subject to review and recommendation by the Design Review Board (Board). For any development activity that requires Board review, the applicant must comply with the provisions of this section before a building permit can be approved, as follows:

- (a) Public Meetings. All meetings of the Board shall be open to the public but are not subject to the requirements of the Open Public Meetings Act, Chapter [42.30](#) RCW.
- (b) Conceptual Design Conference. Before submitting a building permit application, the applicant shall attend a conceptual design conference with the Board. The conference will be scheduled by the Director to occur within thirty (30) days of written request by the applicant. The purpose of this conference is to provide an opportunity for the applicant to discuss the project concept with the Board in the early stages of the project development and:
 - (1) To review preliminary sketches of the design proposal presented by the applicant;
 - (2) To discuss how the design guidelines pertain to the proposed development;
 - (3) For the Design Review Board to designate which design guidelines apply to the proposed development based primarily on the location and nature of the proposed development; and
 - (4) Other application materials the applicant will need to submit with the design review application.
- (c) Application. Following the conceptual design conference, the applicant may then submit a building permit application to the Department. The application shall include all documents and exhibits required for the application, as well as all materials required as a result of the conceptual design conference.
- (d) Public Notice. On determination of a complete application for a building permit requiring design review, the Director shall schedule a design response conference with the Board to occur within sixty (60) calendar days. The Director shall provide public notice of the design response conference per the requirements of BMC [20.02.100](#).
- (e) Design Response Conference. The design response stage allows the Board to review the design plans and provide direction to the applicant on issues to be resolved for final approval. The applicant shall present the proposed project and demonstrate its consistency with the design guidelines as discussed in the conceptual design conference to the Board. The Board will consider the information presented and make a formal recommendation to the Director for project approval, approval with conditions, or denial. The Board may continue the conference if necessary to gather additional information necessary for its recommendation. If the conference is continued to a specific date, no further public notice is required; otherwise notice of continuance shall be mailed to all parties participating in the design response conference.
- (f) Approval. Approval of a building permit that is subject to Board review is a Type II Director decision; however, the Board's recommendation shall hold substantial weight. After reviewing the Board recommendation, the Director may grant, deny or conditionally approve an application for the proposed development. Any deviation from the Board's recommendation shall be documented in the Director's findings and conclusions. The decision of the Director may be appealed per the provisions of BMC [20.02.140](#).

20.02.160 DEVELOPMENT AGREEMENT REVIEW PROCEDURES.

- (a) The City may enter into a development agreement with a person having ownership or control of real property within its jurisdiction or outside its boundaries as part of a proposed annexation or a service agreement. A development agreement sets forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.
- (b) A determination of completeness, notice of hearing and a notice of decision are required pursuant to the provisions of this chapter. The one hundred twenty (120) day time limit for the notice of decision shall not apply to a development agreement.
- (c) When a request for a development agreement is consolidated with a Type III or IV project permit, the public hearing shall be consolidated with the open-record hearing on the permit before the Hearing Examiner. The Hearing Examiner shall make a recommendation to the City Council on the development agreement and approval of the project permit shall be conditioned on City Council approval of the development permit.
- (d) The City Council may approve a development agreement by ordinance or resolution only.

20.02.170 PLANNED ACTIONS.

A "planned action" is defined in WAC [197-11-164](#) as one (1) or more types of project action that has had significant environmental impacts adequately addressed in an environmental impact statement (EIS) prepared in conjunction with the Comprehensive Plan, subarea plan, fully contained community, a master planned resort, a master planned development or a phased project.

- (a) A project action addressed in a planned action does not require an environmental checklist or threshold determination, but may require the checklist for review to mitigate environmental impacts through the site plan review process.
- (b) To qualify, a project action shall:
 - (1) Be subsequent to or implementing projects in a Comprehensive Plan, subarea plan, fully contained community, a master planned resort, a master planned development or a phased project;
 - (2) Be located within the City's adopted urban growth areas;
 - (3) Be consistent with the Comprehensive Plan;
 - (4) Not be an essential public facility, as defined in RCW [36.70A.200](#).
- (c) The City Council shall designate and approve by ordinance a planned action. The ordinance:
 - (1) Shall describe the type(s) of project action being designated as a planned action;
 - (2) Shall describe how the planned action meets the criteria in subsection (b) of this section, including specific references to the EIS;
 - (3) Shall include findings that the environmental impacts have been identified and adequately addressed in the EIS, subject to project review under WAC [197-11-172](#);
 - (4) Should identify any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as a planned action.
- (d) The planned action may be limited to certain types of development, to specific geographical areas of the City, and/or a time period identified in the EIS, plan, ordinance or resolution.
- (e) Review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. Review of the project shall include:
 - (1) Verification that it meets the description and implements any applicable conditions or mitigation measures identified in the designating ordinance or resolution;
 - (2) Verification that the proposed significant adverse environmental impacts of the project have been adequately addressed in the EIS.
- (f) Nothing in this section limits the City from using applicable law to place conditions on the project in order to mitigate nonsignificant impacts through normal project review and permitting processes.