

CODE

**CITY OF REDMOND
ORDINANCE NO. 2902**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON ADOPTING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390 BY (1) AMENDING THE APPEAL PROCESS FOR TYPE III DECISIONS OUTLINED IN REDMOND ZONING CODE CHAPTER 21.76; (2) ESTABLISHING A DATE FOR PUBLIC HEARING; AND (3) ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Redmond Zoning Code (RZC) Section 21.76 Review Procedures lists the administrative appeal bodies that are appropriate to each permit type; and

WHEREAS, RZC 21.76 identifies Type III permits as a quasi-judicial review; and

WHEREAS, RZC 21.76.050A identifies the Hearing Examiner or Landmarks Commission as the Decision Maker; and

WHEREAS, RZC 21.76.050A identifies the City Council as the Administrative Appeal Body for Type III permits; and

WHEREAS, pursuant to RCW 36.70B.110(9), the City is not required to provide for an administrative appeals process; and

WHEREAS, it is the Council's intention to make all Type III decisions appealable to the Superior Court except for Shoreline Substantial Development Permits, Shoreline Variances, and

Shoreline Conditional Use Permits which are appealable to the State Shorelines Hearings Board; and

WHEREAS, by removing the Council from the appeals process for Type III decisions, the Council may interact and advocate on those topics that may be implicated in a Type III decision.

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

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City Code.

Section 2. Amendment of Sections. RZC 21.76.050, "Permit Types and Procedures," and RZC 21.76.060 "Review Procedures", is hereby amended as shown in the attached Exhibit 1.

Section 3. Setting of Public Hearing. A public hearing is hereby set on this interim zoning ordinance for January 16, 2018, such date being within at least sixty (60) days of the adoption of this ordinance. The interim zoning ordinance is further directed to the Planning Commission for its consideration and recommendation regarding adoption of an appropriate change to the City's zoning codes.


Section 4. 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 5. Effective date. This ordinance takes effect and is in full force five (5) days after its passage, approval, and publication of an approved summary of the title as provided by law.

ADOPTED by the Redmond City Council this 5th day of December,
2017.

CITY OF REDMOND



JOHN MARCHIONE, MAYOR

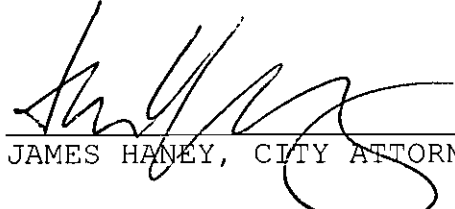
ATTEST:



MICHELLE M. HART, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:



JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:	November 21, 2017
PASSED BY THE CITY COUNCIL:	December 5, 2017
SIGNED BY THE MAYOR:	December 8, 2017
PUBLISHED:	December 11, 2017
EFFECTIVE DATE:	December 16, 2017
ORDINANCE NO. 2902	

YES: BIRNEY, CARSON, MARGESON, MYERS, PADHYE, SHUTZ, STILIN

EXHIBIT A

21.76.050 PERMIT TYPES AND PROCEDURES

- A. **Purpose.** The purpose of this chapter is to provide detailed administrative review procedures for applications and land use permits classified as Types I through VI.
- B. **Scope.** Land use and development decisions are classified into six processes 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 input sought, and the type of appeal opportunity generally as follows:

Table 21.76.050A Permit Types						
	Permit Type					
	Type I Administrative	Type II Administrative	Type III Quasi-Judicial	Type IV Quasi-Judicial	Type V Quasi-Judicial	Type VI Legislative
TABLE NOTES: <ol style="list-style-type: none"> Shoreline Substantial Development Permits, Shoreline Variances, and Shoreline Conditional Use Permits are appealable directly to the State <u>Shorelines</u> Hearings Board. Landmarks Commission makes decisions for Certificate of Appropriateness Level III permits. 						
Level of Impact and Level of Discretion Exercised by decision maker	Least level of impact or change to policy/regulation. Least level of discretion.				Potential for greatest level of impact due to changes in regulation or policy. Greatest level of discretion.	
Input Sought	Minimal-generally no public notice required. No public hearing.	Notice of Application provided. No public hearing. Neighborhood meeting only required for <u>short plats</u> meeting certain criteria.	Notice of Application provided. Neighborhood meeting <u>may</u> be required. Public hearing is required.	Notice of Application provided. Neighborhood meeting may be required. Public hearing is required.	Notice of Application provided. Neighborhood meeting may be required. Public hearing is required.	Notice of Public Hearing provided.

Table 21.76.050A

Permit Types

	Permit Type					
	Type I Administrative	Type II Administrative	Type III Quasi-Judicial	Type IV Quasi-Judicial	Type V Quasi-Judicial	Type VI Legislative
Public Hearing prior to Decision?	No	No	Yes, Hearing Examiner (or Landmarks Commission) ²	Yes, Hearing Examiner	Yes, City Council	Yes, Planning Commission
Decision Maker	Appropriate Department	<u>Technical Committee</u>	Hearing Examiner (or Landmarks Commission) ²	City Council	City Council	City Council
Administrative Appeal Body	Hearing Examiner (Hearing Examiner decision on appeal may be appealed to Superior Court.)	Hearing Examiner ¹ (Hearing Examiner decision on appeal may be appealed to Superior Court.)	City Council ² None (decision appealable to Superior Court) ¹	None (decision appealable to Superior Court)	None (decision appealable to Superior Court)	None (decision appealable to Superior Court)

C. **Classification of Permits and Decisions - Table.** The following table sets forth the various applications required and classifies each application by the process used to review and decide the application.

Type I - RZC 21.76.050.F:	Administrative Approval, Appropriate Department is Decision Maker
Type II - RZC 21.76.050.G:	Administrative Approval, Review and Decision by Technical Committee and Design Review Board or Landmarks Commission*
Type III - RZC 21.76.050.H:	Quasi-Judicial, Decision by Hearing Examiner or Landmarks and Heritage Commission*
Type IV - RZC 21.76.050.I:	Quasi-Judicial, Recommendation by Hearing Examiner, Decision by City Council
Type V - RZC 21.76.050.J:	Quasi-Judicial, Decision by City Council
Type VI - RZC 21.76.050.K:	Legislative, recommendation by Planning Commission, Decision by City Council

*for properties with a Designation of Historic Significance, please refer to RZC 21.76.060.H, *Landmarks and Heritage Commission Determination/Decisions.*

Table 21.76.050B

Classification of Permits and Decisions

Permit Type	Process Type	RMC Section (if applicable)
Administrative Interpretation	I	
Administrative Modification	II	
Alteration of Geologic Hazard Areas	III	
Binding Site Plan	II	
Boundary Line Adjustment	I	
Building Permit	I	RMC 15.06
Certificate of Appropriateness Level I	I	
Certificate of Appropriateness Level II	II	
Certificate of Appropriateness Level III	III	
Clearing and Grading Permit	I	RMC 15.24
Comprehensive Plan Map and/or Policy Amendment	VI	
Conditional Use Permit	III	
Development Agreement	V	
Electrical Permit	I	RMC 15.12
Essential Public Facility	IV	
Extended Public Area Use Permit	I	RMC 12.08
Flood Zone Permit	I	RMC 15.04
Historic Landmark Designation	III	
Home Business	I	
Hydrant Use Permit	I	RMC 13.16.020
International Fire Code Permit	I	RMC 15.06
Master Planned Development See RZC 21.76.070.P	II, III, IV or V	
Mechanical Permit	I	RMC 15.14
Plat Alteration	V	
Plat Vacation	V	
Plumbing Permit	I	RMC 15.16
Preliminary Plat	III	
Reasonable Use Exception See RZC 21.76.070.U	I, II, III, IV or V	
Right-of-Way Use Permit	I	RMC 12.08
Sewer Permit	I	RMC 13.04
Permit Type	Process Type	RMC Section (if applicable)
Shoreline Conditional Use Permit	III	
Shoreline Exemption	I	
Shoreline Substantial Development Permit	II	
Shoreline Variance	III	
Short Plat	II	

Sign Permit/Program	I	
Site Plan Entitlement	II	
Special Event Permit	I	RMC 10.60
Structure Movement Permit I-IV	I	RMC 15.22
Temporary Use Permit (Long-Term)	V	
Temporary Use Permit (Short-Term)	I	
Tree Removal Permit	I	
Variance	III	
Water Permit	I	RMC 13.08
Willows Rose Hill Demonstration Project	III	
Wireless Communication Facility Permit I	I	
Wireless Communication Facility Permit II	II	
Zoning Code Amendment-Zoning Map (consistent with Comprehensive Plan)	IV	
Zoning Code Amendment (text)	VI	
Zoning Code Amendment (that requires a Comprehensive Plan Amendment)	VI	

D. **Permits and Actions Not Listed.** If a permit or land use action is not listed in the table in RZC 21.76.050.C, *Classification of Permits and Decisions*, the Administrator shall make a determination as to the appropriate review procedure based on the most analogous permit or land use action listed.

E. **Consolidated Permit and Appeal Process.**

1. Where this Code requires more than one land use permit for a given development, all permit applications (except Type I applications) may be submitted for review collectively according to the consolidated review process established by this section.
2. Where two or more land use applications for a given development are submitted for consolidated review, the review shall be conducted using the highest numbered process type applicable to any of the land use applications, provided that each land use application shall only be subject to the relevant decision criteria applicable to that particular development application. For example, a development proposal that includes a Type II application and a Type III application shall be reviewed using the Type III process, but the Type II application shall be decided based on the relevant decision criteria applicable to the Type II application. If two or more land use applications are consolidated for review, the highest application review and decision timeframe as outlined within RZC 21.76.040.D shall apply.
3. When the consolidated process established by this section is used, the City shall issue single, consolidated notices, staff reports, and decision documents encompassing all of the land use applications under review. Except as provided in subsection E.5 below, the applications shall be considered in a single, consolidated open record public hearing and shall be subject to no more than one consolidated closed record appeal.
4. Where a development requires more than one land use permit but the applicant elects not to submit all applications for consolidated review, applications may be submitted and processed sequentially, provided that the permit subject to the highest numbered process type must be submitted and obtained first, followed by the other permits in sequence from the highest numbered type to the lowest.

5. Where a development proposal requires a zoning map amendment, the zoning map amendment must be considered and approved by the Hearing Examiner and City Council before any hearing is held or decision is made on any related application for a conditional use permit, subdivision, variance, master planned development, site plan entitlement, or other similar quasi-judicial or administrative action. This subsection is intended to be a “procedural requirement” applicable to such actions as contemplated by RCW 58.17.070.
6. All appeals of project permit decisions for a single project shall be consolidated and heard together in a single appeal, **using the highest level appeals process**, except for appeals of environmental Determinations of Significance. Where a Determination of Significance (DS) is appealed, the appeal shall be heard by the Hearing Examiner using the Type II review process prior to any consideration of the underlying application. Where a Determination of Non-Significance (DNS) or the adequacy of an Environmental Impact Statement (EIS) is appealed, the hearing on the appeal shall be consolidated with any open record public hearing to be conducted on the underlying application.

F. Type I Review.

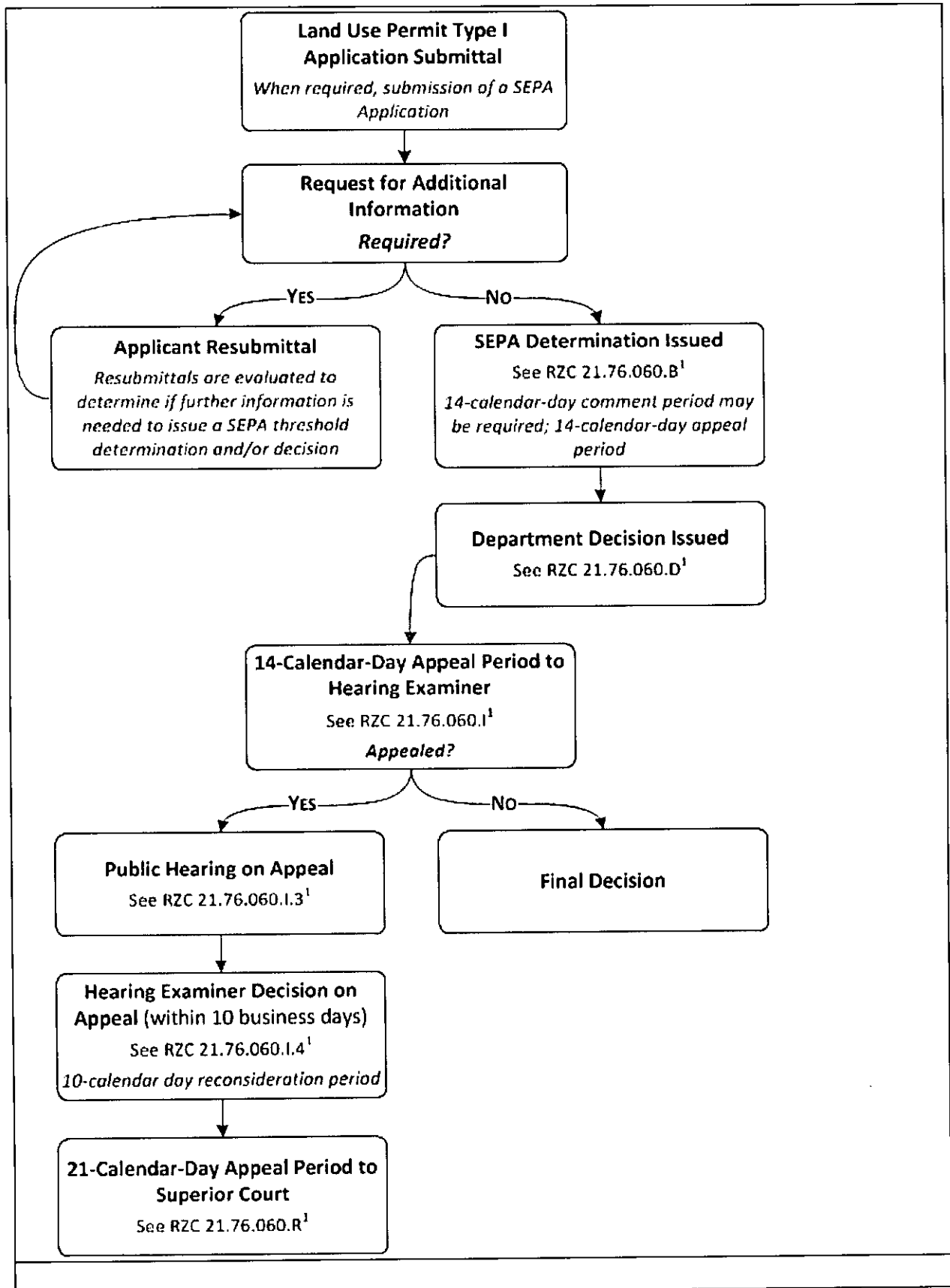
1. Overview of Type I Review. A Type I process is an administrative review and decision by the appropriate department director or designee. These are applications which are categorically exempt from review under the State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application. Appeals of Type I decisions are made to the Hearing Examiner in an open record hearing. Appeal decisions of the Hearing Examiner may be appealed to the King County Superior Court. Type I reviews are exempt from the procedures of RZC 21.76.040, *Time Frames for Review*.
2. Process Flow Chart. The flow chart below in Figure 21.76.050A depicts the process that will be used to review a typical Type I land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC 21.76.060, *Process Steps and Decision Makers*.

Figure Notes:

1. Link to RZC 21.76.060

Figure 21.76.050A

Flow Chart for Type I Process



G. Type II Review.

1. Overview of Type II Review. A Type II process is an administrative review and decision by the Technical Committee and, when required, by the Design Review Board or the Landmarks and Heritage Commission. Depending on the application, the Technical Committee may require a neighborhood meeting to obtain public input. Except for Certificates of Appropriateness related to historic structures, public notification is provided at the application and decision stages of review. Environmental review is conducted, when required. Appeals of Type II decisions are made to the Hearing Examiner in an open record hearing. Appeal decisions of the Hearing Examiner may be appealed to the King County Superior Court.
2. Process Flow Chart. The flow chart below in Figure 21.76.050B generally depicts the process that will be used to review a typical Type II land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC 21.76.060, *Process Steps and Decision Makers*, and RZC 21.76.080, *Notices*.

Figure 21.76.050B
Flow Chart for Type II Process

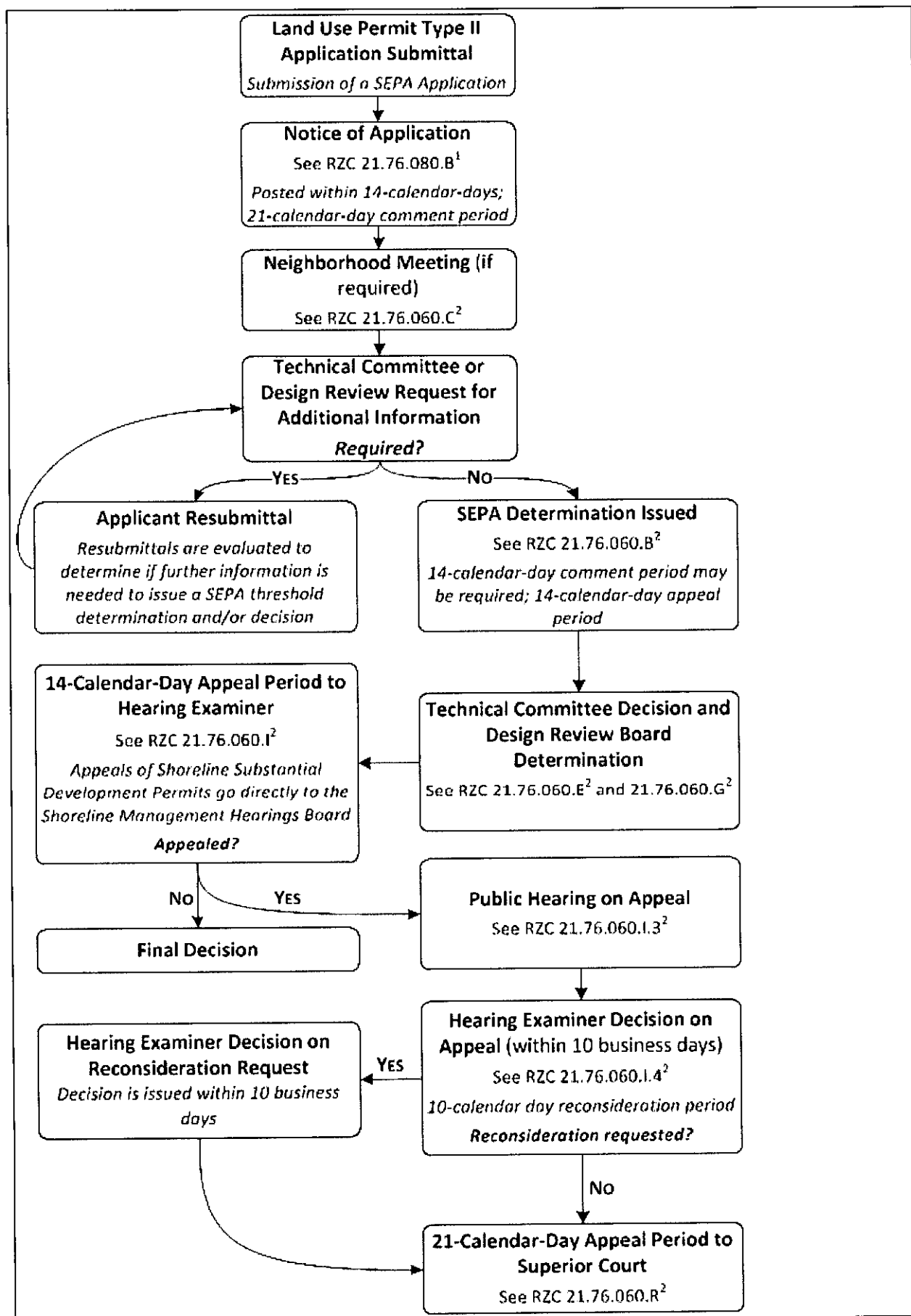


Figure Notes:

1. Link to RZC 21.76.080
2. Link to RZC 21.76.060

H. **Type III Review.**

1. Overview of Type III Review. A Type III process is a quasi-judicial review and decision made by the Hearing Examiner or, in the case of Level III Certificates of Appropriateness on which a hearing is to be held under 70-090(4)(b) and in the case of Historic Landmark Designations for removal of Historic Landmark Designations, by the Landmarks and Heritage Commission. Environmental review is conducted when required. The Hearing Examiner (or the Landmarks and Heritage Commission on the applications described in the preceding sentence) holds an open record public hearing on a Type III application after receiving a recommendation from the Technical Committee and, when required, the Design Review Board. Depending on the application, the Technical Committee may require a neighborhood meeting to obtain public input. Public notification is provided at the application, public hearing, and decision stages of application review. The Hearing Examiner (or the Landmarks and Heritage Commission on the applications described above) makes a decision after considering the recommendation of the Technical Committee and Design Review Board and the public testimony received at the open record public hearing. Decisions of the Hearing Examiner (or the Landmarks and Heritage Commission on the applications described above) are appealable to the **King County Superior Court** ~~City Council~~, which considers the appeal in a closed record appeal proceeding. ~~The City Council's decision may be appealed to the King County Superior Court.~~
2. Process Flow Chart. The flow chart below in Figure 21.76.050C generally depicts the process that will be used to review a typical Type III land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC [21.76.060](#), *Process Steps and Decision Makers*, and RZC [21.76.080](#), *Notices*.

Figure 21.76.050C
Flow Chart for Type III Process

Figure 21.76.050C
Flow Chart for Type III Process

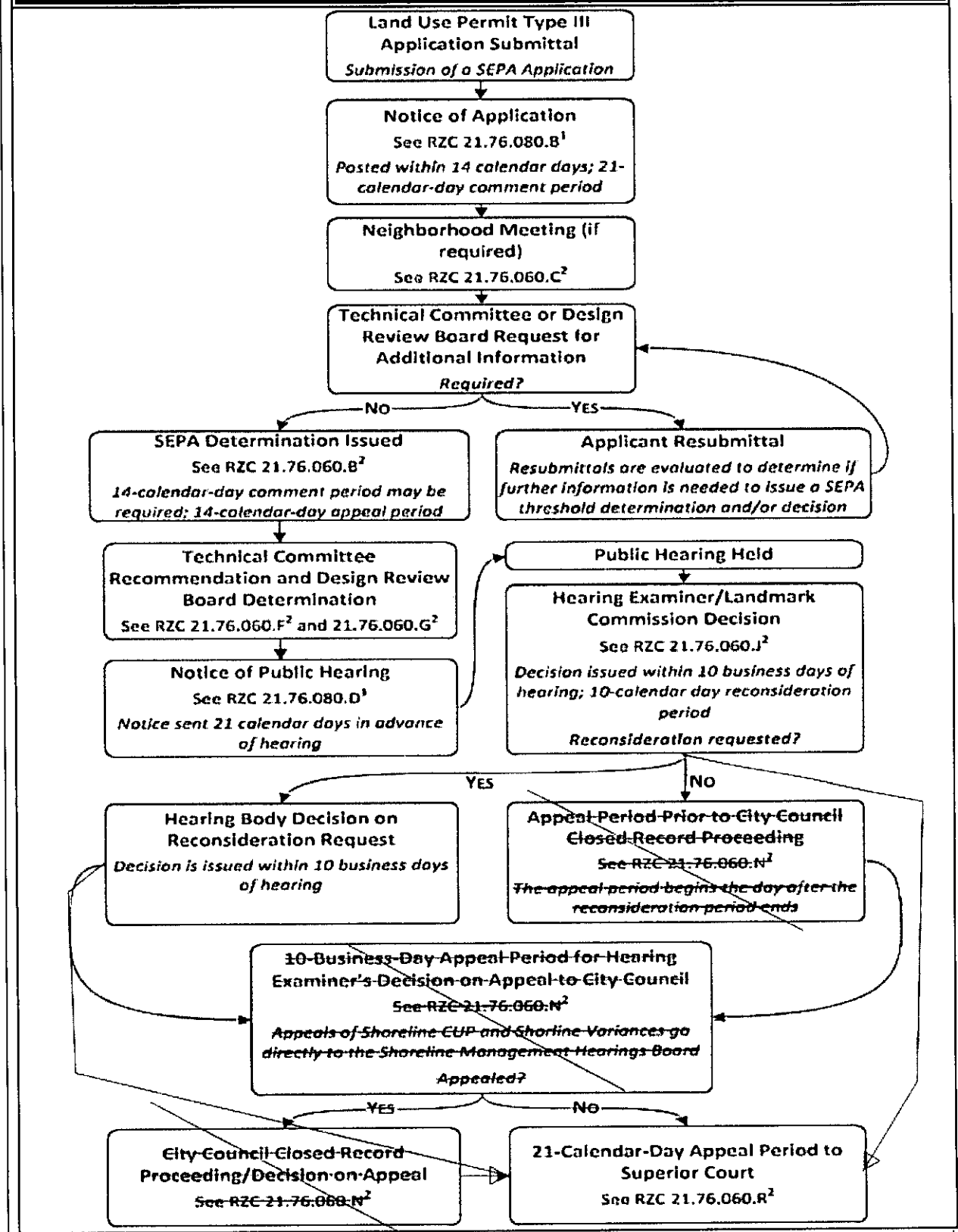


Figure Notes:

1. Link to RZC [21.76.080](#)
2. Link to RZC [21.76.060](#)

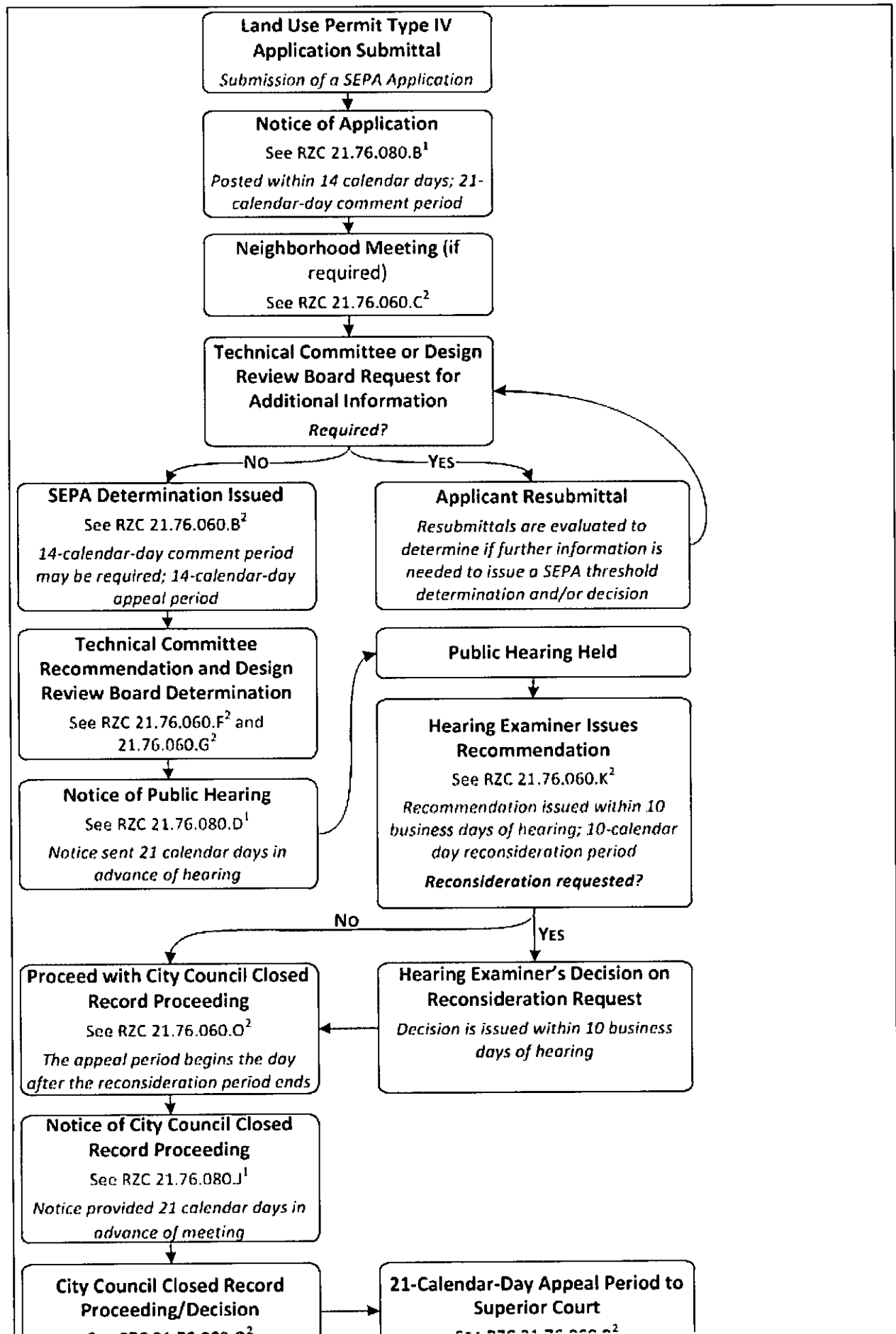
I. **Type IV Review.**

1. Overview of Type IV Review. A Type IV review is a quasi-judicial review and recommendation made by the Hearing Examiner and a decision made by the City Council. Environmental review is conducted when required. At an open record public hearing, the Hearing Examiner considers the recommendation of the Technical Committee and, when required, the Design Review Board, as well as public testimony. Depending on the application, the Technical Committee may require a neighborhood meeting to obtain public input. The Hearing Examiner makes a recommendation to the City Council, which considers the recommendation in a closed record proceeding and makes a final decision. Public notification is provided at the application, public hearing, and decision stages of application review. There is no administrative appeal. The City Council's decision may be appealed to the King County Superior Court.
2. Process Flow Chart. The flow chart below in Figure 21.76.050D generally depicts the process that will be used to review a typical Type IV land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC [21.76.060](#), *Process Steps and Decision Makers*, and RZC [21.76.080](#), *Notices*.

Figure Notes:

1. Link to RZC [21.76.080](#)
2. Link to RZC [21.76.060](#)

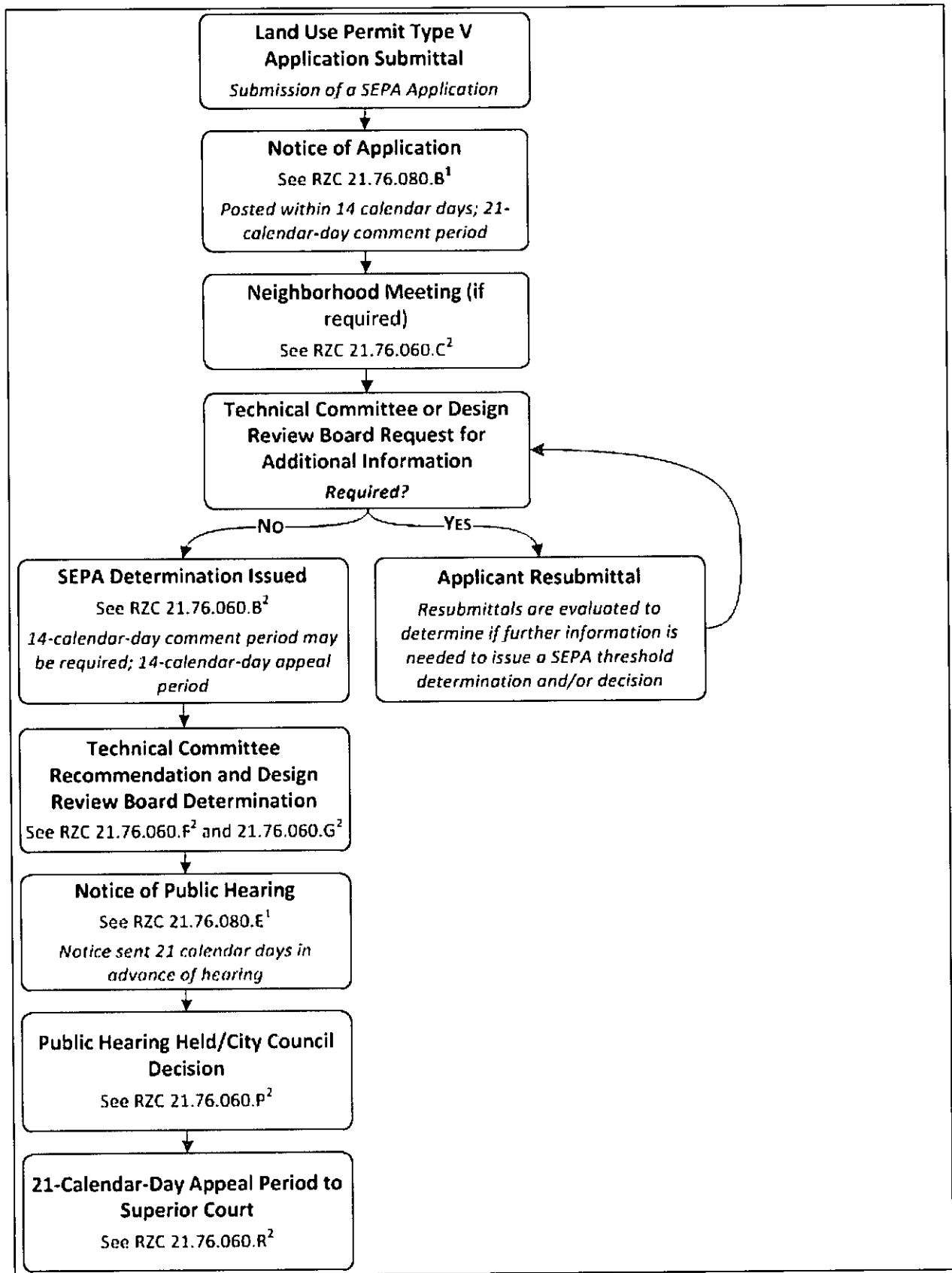
Figure 21.76.050D
Flow Chart for Type IV Process



J. Type V Review.

1. Overview of Type V Review. A Type V review is a quasi-judicial review and decision made by the City Council. Environmental review is conducted when required. The Technical Committee (and Design Review Board, if required) makes a recommendation to the City Council. Depending on the application, the Technical Committee may require a neighborhood meeting to obtain public input. The City Council shall hold a public hearing on the application prior to making a decision. Public notification is provided at the application, public hearing, and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of City Council decisions are made to King County Superior Court.
2. Process Flow Chart. The flow chart below in Figure 21.76.050E generally depicts the process that will be used to review a typical Type V land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC [21.76.060](#), *Process Steps and Decision Makers*, and RZC [21.76.080](#), *Notices*.

Figure Notes: 1. Link to RZC 21.76.080 2. Link to RZC 21.76.060
Figure 21.76.050E Flow Chart for Type V Process



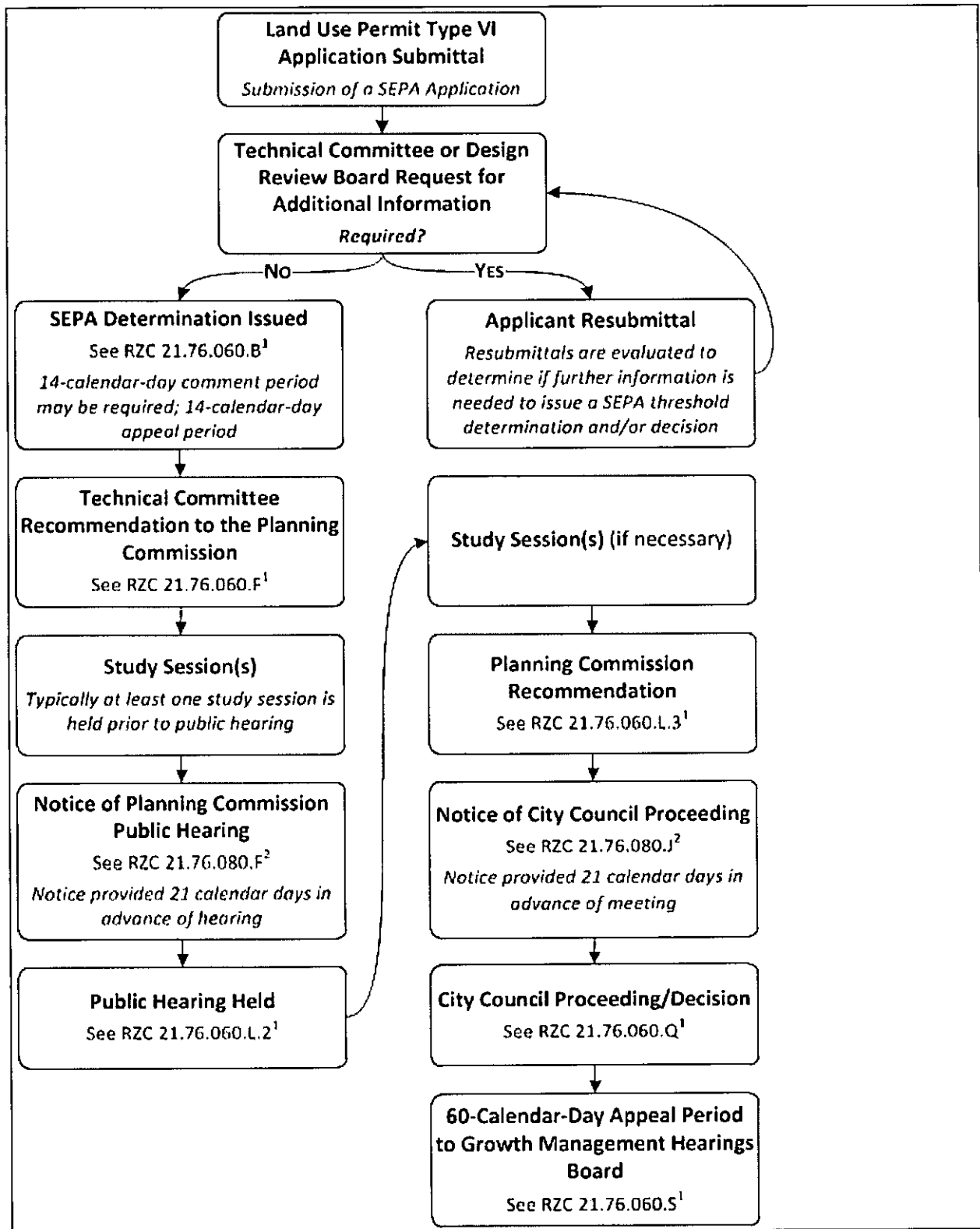
K. Type VI Review.

1. Overview of Type VI Review. A Type VI review is for legislative land use decisions made by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. Environmental review is conducted when required. The Planning Commission holds at least one open record public hearing and makes a recommendation to the City Council. The City Council may hold an additional public hearing or hearings at its option. The City Council makes a final decision. The City Council's decision may be appealed to the Central Puget Sound Growth Management Hearings Board. Type VI reviews are exempt from the procedures of RZC 21.76.040, *Time Frames for Review*.
2. Process Flow Chart. The flow chart below in Figure 21.76.050F generally depicts the process that will be used to review a typical Type VI land use permit. The process may vary for individual permits based on the nature and complexity of the issues involved. This flow chart is therefore provided for general reference only. More detail on each of the steps is provided in RZC 21.76.060, *Process Steps and Decision Makers*, and RZC 21.76.080, *Notices*.

Figure Notes:

1. Link to RZC 21.76.060
2. Link to RZC 21.76.080

Figure 21.76.050F
Flow Chart for Type VI Process



RZC 21.76 Review Procedures

21.76.060 PROCESS STEPS AND DECISION MAKERS

- A. **Purpose.** The purpose of this section is to provide an explanation of each of the procedural steps set forth in the process flow charts in RZC 21.76.050, *Permit Types and Procedures*.
- B. **Environmental Review Under the State Environmental Policy Act (SEPA).**
1. All applications shall be reviewed under the State Environmental Policy Act (SEPA) unless categorically exempt under SEPA. The City's environmental procedures are set forth in RZC 21.70, State Environmental Policy Act (SEPA) Procedures.
 2. **Threshold Determinations.** The Administrator shall issue the threshold determination after the minimum comment period for the Notice of Application and prior to the decision on the application. The threshold determination shall be mailed and posted in the same manner as the Notice of Application. The threshold determination shall also be sent to agencies with jurisdiction, if any, and the Washington State Department of Ecology. There is a 14-day comment period for certain threshold determinations as provided in WAC 197-11-340. Any comments received shall be addressed in the Technical Committee decision or recommendation on the application, which shall include the final threshold determination (DNS or DS) issued by the Administrator.
 3. **Optional DNS Process.** For projects where there is a reasonable basis for determining that significant adverse impacts are unlikely, a preliminary DNS may be issued with the Notice of Application. The comment period for the DNS and the Notice of Application shall be combined. The Notice of Application shall state that the City expects to issue a DNS for the proposal and that this may be the only opportunity to comment on the environmental impacts of the proposed project. After the close of the comment period, the Technical Committee shall review any comments and issue the final DNS in conjunction with its decision or recommendation on the application.
 4. **Determination of Significance.** If a Determination of Significance (DS) is issued, and an Environmental Impact Statement (EIS) is required, the EIS will be completed prior to issuance of the Technical Committee/Design Review Board decision or recommendation. If the requirement to prepare an EIS or a Supplemental EIS is appealed by the applicant, that appeal must be resolved prior to issuance of the Technical Committee/Design Review Board decision or recommendation.
- C. **Neighborhood Meetings.**
1. The purpose of neighborhood meetings is to:
 - a. Provide a forum for interested individuals to meet with the applicant to learn about the proposal and the applicable process early in the review process;
 - b. Provide an opportunity for meaningful public input;
 - c. Provide a dialogue between the applicant, citizens, and City whereby issues can be identified and discussed; and
 - d. Provide an opportunity for applicants to address concerns generated by individuals and incorporate possible changes.
 2. **Required Neighborhood Meeting:** A neighborhood meeting shall be required for the following:
 - a. Essential Public Facility.
 - b. Master Planned Development.
 - c. Preliminary Plat.
 - d. Short plats that meet any of the following criteria:
 - i. propose three or more lots.
 - ii. have critical areas on-site, or

- iii. are forested (75 percent tree canopy).
 - e. As otherwise required within the RZC.
 - f. In addition, the Technical Committee may require a neighborhood meeting on any Type III, IV or V application.
 3. Where a neighborhood meeting is required, it shall be conducted by the applicant within 45 days of the termination of the Notice of Application comment period. The applicant shall notify the City of the date and time of the meeting. At least one representative from City staff shall be in attendance. The applicant shall mail notice of the neighborhood meeting to the same individuals to whom notice is required for the Notice of Application, a minimum of 21 days in advance of the meeting. The applicant shall provide the City with an affidavit of mailing. The neighborhood meeting shall be required to take place prior to the Technical Committee decision or recommendation. In certain circumstances, the Technical Committee may choose to hold the neighborhood meeting, in which case the City shall mail the notice of neighborhood meeting as described above. A sign-in sheet shall be provided at the meetings, giving attendees the option of establishing themselves as a party of record.
 4. Additional Neighborhood Meetings. In order to provide an opportunity for applicants to address concerns generated by interested parties, applicants are encouraged to hold an additional neighborhood meeting (or meetings) to provide interested parties with additional information, proposed changes to plans, or provide further resolution of issues. If the applicant holds additional meetings, there shall be no specific requirements for notice or City attendance. However, the City shall make effort to attend meetings where appropriate and when the applicant has notified the City that additional meetings are taking place. Any persons attending additional neighborhood meetings who have not established themselves as a party of record, and who wish to do so, must contact the City directly.

D. Director Decisions on Type I Reviews.

1. Type I Decision Makers. Decisions on Type I applications are made by the appropriate department director or designee.
2. Decision Criteria. The decision of the department director shall be based on the criteria for the application set forth in this code, or in the applicable uniform or international code in the case of building and fire-related permits. The decision shall include any conditions necessary to ensure consistency with the applicable development regulations. The department director may consult with the Technical Committee, the Design Review Board, or the Landmarks and Heritage Commission on any Type I application, but the final decision-making authority on such applications remains with the department director.
3. Decision. A written record of the director's decision shall be prepared in each case and may be in the form of a staff report, letter, the permit itself, or other written document indicating approval, approval with conditions, or denial. The decision shall be mailed as provided in RZC 21.76.080.G, *Notice of Final Decision*. See RZC 21.68.200.C.7.a for decisions on Shoreline Exemptions.
4. Appeal. Type I decisions may be appealed to the Hearing Examiner as provided in RZC 21.76.060.I, *Appeals to Hearing Examiner on Type I and II Permits*. All decisions are final upon expiration of the appeal period or, if appealed, upon the date of issuance of the Hearing Examiner's final decision on the appeal. Appeal decisions of the Hearing Examiner may be appealed to the King County Superior Court as provided RZC 21.76.060.M.

E. Technical Committee Decisions on Type II Reviews.

1. **Decision.** Decisions on Type II applications are made by the Technical Committee. The decision of the Technical Committee shall be based on the criteria for the application set forth in the RZC, and shall include any conditions necessary to ensure consistency with the applicable development regulations.
2. **Record.** A written record of the Technical Committee's decision shall be prepared in each case and may be in the form of a staff report, letter, the permit itself, or other written document indicating approval, approval with conditions, or denial. All parties of record shall be notified of the final decision.
3. **Design Review Board and Landmarks and Heritage Commission Review.** When design review or review of a Certificate of Appropriateness is required, the decision of the Design Review Board or Landmarks and Heritage Commission shall be included with the Technical Committee decision.
4. **Appeal.** Type II decisions (except shoreline permits) may be appealed to the Hearing Examiner as provided in RZC 21.76.060.I, *Appeals to Hearing Examiner on Type I and Type II Permits*. All decisions are final upon expiration of the appeal period or, if appealed, upon issuance of the Hearing Examiner's final decision on the appeal. Appeal decisions of the Hearing Examiner may be appealed to the King County Superior Court as provided in RZC 21.76.060.M.

F. Technical Committee Recommendations on Type III, IV, V and VI Reviews. The Technical Committee shall make a recommendation to the Hearing Examiner on all Type III and Type IV reviews, a recommendation to the City Council on all Type V Reviews, and a recommendation to the Planning Commission for all Type VI reviews. The Technical Committee's recommendation shall be based on the decision criteria for the application set forth in the RZC, and shall include any conditions necessary to ensure consistency with the City's development regulations. Based upon its analysis of the application, the Technical Committee may recommend approval, approval with conditions or with modifications, or denial. A written report of the Technical Committee's recommendation shall be prepared and transmitted to the Hearing Examiner along with the recommendation of the Design Review Board and/or Landmarks and Heritage Commission where applicable.

G. Design Review Board Determinations on Type II, III, IV and V Reviews. When design review is required by the Design Review Board, the Design Review Board shall consider the application at an open public meeting of the Board in order to determine whether the application complies with Article III, Design Standards. The Design Review Board's determination shall be given the effect of a final decision on design standard compliance for Type II applications, shall be given the effect of a recommendation to the Hearing Examiner on a Type III or Type IV application, and the effect of a recommendation to the City Council on a Type V application. The Design Review Board's determination shall be included with the written report that contains the Technical Committee recommendation or decision. The Design Review Board's determination may be appealed in the same manner as the decision of the applicable decision maker on the underlying land use permit.

H. Landmarks and Heritage Commission Determination/Decisions. The Landmarks and Heritage Commission as specified below shall review all applications requiring a Level II or Level III Certificate of Appropriateness and all applications for Historic Landmark Designation.

1. When review of a Level II Certificate is required, the Redmond Landmarks and Heritage Commission shall consider the application at an open public meeting using the review process for the application in RZC 21.76.050.C in order to determine whether the application complies with the criteria set forth in RZC 21.30, Historic and Archeological

Resources, and King County Code Chapter 20.62. Based upon its analysis of the application, the Landmarks and Heritage Commission may approve the application, approve it with conditions or modifications, or deny the application. The Landmarks and Heritage Commission's determination shall be included with the written report that contains the Technical Committee recommendation or decision. Conditions based on the Landmarks and Heritage Commission's determination may be appealed to the Hearing Examiner in the same manner as the Technical Committee decision.

2. When review of a Level II Certificate of Appropriateness requiring a public hearing (see RZC 21.30.050.D.2) or review of a Level III Certificate of Appropriateness is required, the Redmond Landmarks and Heritage Commission shall hold an open record public hearing on the application using a Type III process as provided in RZC 21.76.060.J. The Landmarks and Heritage Commission shall determine whether the application complies with the criteria set forth in RZC 21.30.050.E of the RZC. Based upon its analysis of the application, the Landmarks and Heritage Commission may approve the application, approve it with conditions or modifications, or deny the application. The decision of the Landmarks and Heritage Commission may be appealed to the **King County Superior Court**. ~~Redmond City Council in a closed record appeal proceeding pursuant to RZC 21.76.060.N.~~
 3. The King County Landmarks Commission, acting as the Redmond Landmarks and Heritage Commission, shall review and make determinations on all applications for Historic Landmark Designation or removal of a Historic Landmark Designation. When the King County Landmarks Commission reviews a Historic Landmark Designation nomination or the removal of a Historic Landmark Designation, the King County Landmarks Commission will follow the procedures set forth in King County Code Chapter 20.62, including the holding of an open record hearing on the application. Applications shall be decided based on the criteria in King County Code Chapter 20.62. The decision of the King County Landmarks Commission on a Historic Landmark Designation or removal of a Historic Landmark Designation shall be a final decision appealable to the **King County Superior Court**. ~~Redmond City Council in a closed record appeal proceeding pursuant to RZC 21.76.060.N.~~
- i. **Appeals to Hearing Examiner on Type I and Type II Permits.**
1. Overview. For Type I and Type II permits, the Hearing Examiner acts as an appellate body, conducting an open record appeal hearing when a decision of a department director (Type I) or the Technical Committee (Type II) is appealed. The Hearing Examiner's decision on the appeal may be further appealed to the **King County Superior Court**. ~~City Council in a closed record appeal proceeding¹.~~
 2. Commencing an Appeal. Type I and II decisions may be appealed as follows:
 - a. Who May Appeal. Any party of record may appeal the decision.
 - b. Form of Appeal. A person appealing a Type I or II decision must submit a completed appeal form which sets forth:
 - i. Facts demonstrating that the person is adversely affected by the decision;
 - ii. A concise statement identifying each alleged error of fact, law, or procedure, and the manner in which the decision fails to satisfy the applicable decision criteria;

¹ Clerk's Note: This scrivener's error was corrected in Ordinance No. 2889.

- iii. The specific relief requested; and
 - iv. Any other information reasonably necessary to make a decision on the appeal.
 - c. Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Redmond City Clerk's Office no later than 5:00 p.m. on the fourteenth day following the date the decision of the Technical Committee/Design Review Board Decision is issued.
 - d. Shoreline Permit Appeals must be submitted to the Shoreline Hearings Board. See RZC 21.68.200.C.6.b.
3. Hearing Examiner Public Hearing on Appeal. The Hearing Examiner shall conduct an open record hearing on a Type I or Type II appeal. Notice of the hearing shall be given as provided in RZC 21.76.080.H. The appellant, applicant, owner(s) of property subject to the application, and the City shall be designated parties to the appeal. Only designated parties may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony and by providing exhibits. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information, provided that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner's rules of procedure. The Hearing Examiner shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
4. Hearing Examiner Decision on Appeal. Within 10 business days after the close of the record for the Type I or II appeal, the Hearing Examiner shall issue a written decision to grant, grant with modifications, or deny the appeal. The decision on appeal shall be mailed to all parties of record. The Hearing Examiner shall accord substantial weight to the decision of the department director (Type I) or Technical Committee (Type II). The Hearing Examiner may grant the appeal or grant the appeal with modifications if the Examiner determines that the appellant has carried the burden of proving that the Type I or II decision is not supported by a preponderance of the evidence or was clearly erroneous.
5. Request for Reconsideration. Any designated party to the appeal who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 10 business days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or issuing a revised decision shall be sent to all parties of record.
6. Appeal. A Hearing Examiner Decision on a Type I or Type II appeal may be appealed to the King County Superior Court as provided in RZC 21.76.060.M.

J. Hearing Examiner and Landmarks and Heritage Commission Final Decisions on Type III Reviews.

1. Overview. For Type III reviews, the Hearing Examiner (or the Landmarks and Heritage Commission on Level II Certificates of Appropriateness that require a public hearing under RZC 21.30.050.D.2 and on Level III Certificates of Appropriateness) makes a final decision after receiving the recommendation of the Technical Committee and holding an open record public hearing. The Hearing Examiner's (or Landmarks and Heritage Commission's) decision may be appealed to the King County Superior Court ~~City Council and considered by the Council in a closed record appeal proceeding.~~

2. Public Hearing. The Hearing Examiner (or Landmarks and Heritage Commission on the applications specified above) shall hold an open record public hearing on all Type III permits. The open record public hearing shall proceed as follows:
 - a. Notice of the hearing shall be given as provided in RZC 21.76.080.D.
 - b. Any person may participate in the Hearing Examiner's (or Landmarks and Heritage Commission's) public hearing on the Technical Committee's recommendation by submitting written comments prior to or at the hearing, or by providing oral testimony and exhibits at the hearing.
 - c. The Administrator shall transmit to the Hearing Examiner (or Landmarks and Heritage Commission) a copy of the department file on the application, including all written comments received prior to the hearing and information reviewed by or relied upon by the Administrator. The file shall also include information to verify that the requirements for notice to the public (Notice of Application and Notice of SEPA Threshold Determination) have been met.
 - d. The Hearing Examiner (or Landmarks and Heritage Commission) shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
3. Authority. The Hearing Examiner (or Landmarks and Heritage Commission) shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the RZC. The applicant bears the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner (or Landmarks and Heritage Commission) shall deny the application.
4. Conditions. The Hearing Examiner (or Landmarks and Heritage Commission) may include conditions to ensure a proposal conforms to the relevant decision criteria.
5. Decision. The Hearing Examiner (or Landmarks and Heritage Commission) shall issue a written report supporting the decision within 10 business days following the close of the record. The report supporting the decision shall be mailed to all parties of record. The report shall contain the following:
 - a. The decision of the Hearing Examiner (or Landmarks and Heritage Commission); and
 - b. Any conditions included as part of the decision; and
 - c. Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts; and
 - d. A statement explaining the process to appeal the decision of the Hearing Examiner (or Landmarks and Heritage Commission) to the King County Superior Court City Council.
6. Request for Reconsideration. Any party of record may file a written request with the Hearing Examiner (or Landmarks and Heritage Commission) for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure, law, or fact. No new evidence may be submitted in support of or in opposition to a request for reconsideration. The Hearing Examiner shall act within 10 business days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or the revised decision shall be sent to all parties of record.

7. Appeal. Except for Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, or Shoreline Variances, a Hearing Examiner or Landmarks and Heritage Commission decision may be appealed to the King County Superior Court City Council as provided in RZC 21.76.060.M. Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Shoreline Variances may be appealed to the Shoreline Hearings Board as provided for in RZC 21.68.200.C.6.b and RZC 21.68.200.C.6.c.

K. Hearing Examiner Recommendations on Type IV Reviews.

1. Overview. For Type IV reviews, the Hearing Examiner makes a recommendation to the City Council after receiving the recommendation of the Technical Committee and holding an open record public hearing. The City Council considers the Hearing Examiner's recommendation in a closed record proceeding.
2. Hearing Examiner Public Hearing. The Hearing Examiner shall hold an open record public hearing on all Type IV permits. The open record public hearing shall proceed as follows:
 - a. Notice of the hearing shall be given as provided in RZC 21.76.080.D.
 - b. Any person may participate in the Hearing Examiner's public hearing on the Technical Committee's recommendation by submitting written comments to the Technical Committee prior to the hearing, by submitting written comments at the hearing, or by providing oral testimony and exhibits at the hearing.
 - c. The Administrator shall transmit to the Hearing Examiner a copy of the department file on the application, including all written comments received prior to the hearing and information reviewed by or relied upon by the Administrator. The file shall also include information to verify that the requirements for notice to the public (Notice of Application and Notice of SEPA Threshold Determination) have been met.
 - d. The Hearing Examiner shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
3. Hearing Examiner Authority. The Hearing Examiner shall make a written recommendation to approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the RZC. The applicant bears the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall make a recommendation to deny the application.
4. Conditions. The Hearing Examiner may include conditions in the recommendation to ensure a proposal conforms to the relevant decision criteria.
5. Recommendation. The Hearing Examiner shall issue a written report supporting the recommendation within 10 business days following the close of the record. The report shall contain the following:
 - a. The recommendation of the Hearing Examiner; and
 - b. Any conditions included as part of the recommendation; and
 - c. Findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts.
6. Mailing of Recommendation. The office of the Hearing Examiner shall mail the written recommendation, bearing the date it is mailed, to each person included in the parties of record. The Administrator will provide notice of the Council meeting at which the recommendation will be considered to all parties of record.

7. Request for Reconsideration. Any party of record may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's recommendation. The request shall explicitly set forth alleged errors of procedure, law, or fact. No new evidence may be submitted as part of a request for reconsideration. The Hearing Examiner shall act within 10 business days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or revised decision shall be sent to all parties of record.
8. All Hearing Examiner recommendations on Type IV permits shall be transmitted to the City Council for final action, as provided in RZC 21.76.060.O.

L. Planning Commission Recommendations on Type VI Reviews.

1. Overview. For Type VI proposals, the Planning Commission makes a recommendation to the City Council after holding at least one open record public hearing. The Planning Commission may also hold one or more study sessions prior to making the recommendation. The City Council considers the Planning Commission's recommendation and takes final action by ordinance.
2. Planning Commission Public Hearing. The Planning Commission shall hold at least one open record public hearing. The hearing shall proceed as follows:
 - a. Notice of the public hearing shall be given as provided in RZC 21.76.080.F.
 - b. Any person may participate in the public hearing by submitting written comment to the applicable department director prior to the hearing or by submitting written or making oral comments to the Planning Commission at the hearing. All written comments received by the applicable department director shall be transmitted to the Planning Commission no later than the date of the public hearing
 - c. The Administrator shall transmit to the Planning Commission a copy of the department file on the application, including all written comments received prior to the hearing and information reviewed by or relied upon by the Administrator. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, as required; Notice of SEPA Determination) have been met.
 - d. The Planning Commission shall record and compile written minutes of each hearing.
3. Recommendation. The Planning Commission may recommend that the City Council adopt, or adopt with modifications, a proposal if it complies with the applicable decision criteria in RZC 21.76.070, *Land Use Actions and Decision Criteria*. In all other cases, the Planning Commission shall recommend denial of the proposal. The Planning Commission's recommendation shall be in writing and shall contain the following:
 - a. The recommendation of the Planning Commission; and
 - b. Any conditions included as part of the recommendation; and
 - c. Findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts.
4. Additional Hearing on Modified Proposal. If the Planning Commission recommends a modification which results in a proposal not reasonably foreseeable from the notice provided pursuant to RZC 21.76.080.F, the Planning Commission shall conduct a new public hearing on the proposal as modified. The Planning Commission shall consider the public comments at the hearing in making its final recommendation.

5. A vote to recommend adoption of the proposal or adoption with modification must be by a majority vote of the Planning Commission members present and voting.
6. All Planning Commission recommendations shall be transmitted to the City Council for final action as provided in RZC 21.76.060.Q.

M. Appeals to King County Superior Court on Type I and II Reviews.

1. Overview. Except for Shoreline Substantial Development Permits, all decisions of the Hearing Examiner on Type I and II appeals may be appealed to the King County Superior Court.
2. Commencing an Appeal. Hearing Examiner decisions on Type I and II appeals permits above may be appealed to the King County Superior Court, as follows:²
 - a. ~~Who May Appeal. The following parties may appeal:~~
 - i. ~~The applicant;~~
 - ii. ~~The owner(s) of property subject to the application;~~
 - iii. ~~City staff; and~~
 - iv. ~~In the case of Type I or II decisions, any party who appealed the department director's or Technical Committee's decision to the Hearing Examiner.~~
 - b. ~~Form of Appeal. A person appealing a Type I or II decision by the Hearing Examiner or the decisions of the Redmond Landmarks Commission or King County Landmarks Commission described in subsection M.1 must submit a completed appeal form which sets forth:~~
 - i. ~~Facts demonstrating that the person is adversely affected by the decision;~~
 - ii. ~~A concise statement identifying each alleged error of fact, law, or procedure, and the manner in which the decision fails to satisfy the applicable decision criteria;~~
 - iii. ~~The specific relief requested; and~~
 - iv. ~~Any other information reasonably necessary to make a decision on the appeal.~~
 - c. ~~Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Redmond City Clerk's Office no later than 5:00 p.m. 10 business days following the expiration of the Hearing Examiner's (or Landmarks and Heritage Commission's) reconsideration period.~~
3. The Hearing Examiner's decision on an appeal from the Applicable Department or Technical Committee on a Type I or II review is the final decision of the City and (except for Shoreline Conditional Use Permits and Shoreline Variances) may be appealed to the King County Superior Court as provided in RZC 21.76.060.R.
4. Shoreline Substantial Development Permits and Shoreline Variances must be appealed to the Shoreline Hearings Board. See RZC 21.68.200.C.6.b and 21.68.200.C.6.c.

N. Appeals to the City Council on Type III Reviews and from King County Landmark Commission Decisions.

1. Overview. Except for, **Shoreline Substantial Development Permits**, Shoreline Conditional Use Permits, and Shoreline Variances reviews may be appealed to **the King County Superior Court** ~~City Council~~. All decisions of the Redmond Landmarks and Heritage Commission on Level II Certificates of Appropriateness that require a public hearing, and Level III Certificates of Appropriateness, and all decisions of the King

² Clerk's Note: This scrivener's error was corrected in Ordinance No. 2889.

County Landmarks Commission on Historic Landmark Designations and removal of Historic Landmark Designations may be appealed to the King County Superior Court City Council.

2. Commencing an Appeal. The decision of the Redmond Landmarks and Heritage Commission or the King County Landmarks Commission listed above in (N)(1) are the final decision of the City and may be appealed to the King County Superior Court by filing a land use petition which meets the requirements set forth in RCW Chapter 36.70C. The petition for review must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Hearing Examiner decisions on Type III permits and decisions of the Redmond Landmarks and Heritage Commission and King County Landmarks Commission on matters described in subsection N.1 above may be appealed to the City Council as follows:

a. ~~Who May Appeal. The following parties may appeal:~~

- i. ~~The applicant;~~
- ii. ~~The owner(s) of property subject to the application;~~
- iii. ~~City staff;~~
- iv. ~~In the case of Type III decisions, any person who established themselves as a party of record prior to or at the public hearing; and~~
- v. ~~In the case of decisions by the Redmond Landmarks and Heritage Commission or the King County Landmarks Commission specified in subsection N.1 above, any person who established themselves as a party of record prior to or at the public hearing.~~

b. ~~Form of Appeal. A person appealing a Type III decision by the Hearing Examiner or the decisions of the Redmond Landmarks Commission or King County Landmarks Commission described in subsection N.1 must submit a completed appeal form which sets forth:~~

- i. ~~Facts demonstrating that the person is adversely affected by the decision;~~
- ii. ~~A concise statement identifying each alleged error of fact, law, or procedure, and the manner in which the decision fails to satisfy the applicable decision criteria;~~
- iii. ~~The specific relief requested; and~~
- iv. ~~Any other information reasonably necessary to make a decision on the appeal~~

c. ~~Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Redmond City Clerk's Office no later than 5:00 p.m. 10 business days following the expiration of the Hearing Examiner's (or Landmarks and Heritage Commission's) reconsideration period.~~

d. ~~City Council Decision on Appeal~~

- i. ~~Criteria. The City Council may grant the appeal or grant the appeal with modifications if the appellant proves that the decision of the Hearing Examiner regarding Type III is not supported by a preponderance of the evidence or is clearly erroneous. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner or Landmarks and Heritage Commission.~~
- ii. ~~Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modification to~~

~~ensure conformance with the criteria under which the application was made.~~

- ~~iii. Findings. The City Council shall adopt findings and conclusions which support its decision on the appeal.~~
- ~~iv. Required Vote. A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. A tie vote shall be decided by the vote of the Mayor. Any other vote constitutes denial of the appeal.~~
- ~~v. Notice of Decision on Appeal. Notice of Decision on Appeal shall be provided pursuant to RZC 21.76.080.G, *Notice of Final Decision*.~~

- 3. ~~Hearing Examiner decisions on a Type III review or the Redmond Landmarks and Heritage Commission or King County Landmarks Commission on those matters specified in subsection N.1 is the final decision of the City and (except for Shoreline Conditional Use Permits and) may be appealed to the City Council as provided in RZC 21.76.060.R. **Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Shoreline Variances must be appealed to the Shoreline Hearings Board. See RZC 21.68.200.C.6.b and 21.68.200.C.6.c**~~
- 4. ~~Shoreline Conditional Use Permits must be appealed to the Shoreline Hearings Board. See RZC 21.68.200.C.6.b and 21.68.200.C.6.c~~

O. City Council Decisions on Type IV Reviews.

- 1. Overview. The City Council considers all Hearing Examiner recommendations on Type IV permits in a closed record proceeding. Decisions of the City Council on Type IV permits may be appealed to the King County Superior Court as provided in RZC 21.76.060.R.
- 2. City Council Decision.
 - a. The Administrator shall transmit to the City Council a copy of the department file on the application, including all written comments received prior to and during the open record hearing and information reviewed by or relied upon by the Hearing Examiner. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, Notice of Public Hearing, and Notice of SEPA Determination) have been met.
 - b. The City Council shall conduct a closed record proceeding. Notice of the closed record proceeding shall be provided as outlined within RZC 21.76.080.J, *Notice of Closed Record Appeal Proceeding on Type IV and City Council Proceeding on Type VI Reviews*. The City Council shall not accept new information, written or oral, on the application, but shall consider the following in deciding upon an application:
 - i. The complete record developed before the Hearing Examiner; and
 - ii. The recommendation of the Hearing Examiner.
 - c. The City Council shall either:
 - i. Approve the application; or
 - ii. Approve the application with modifications; or
 - iii. Deny the application, based on findings of fact and conclusions derived from those facts which support the decision of the Council.
 - d. Form of Decision. All City Council decisions on Type IV reviews shall be in writing. All decisions approving a Type IV application shall require passage of an ordinance. Decisions denying Type IV applications shall not require passage of an ordinance. Decisions on Type IV applications shall include:

- i. Findings and Conclusions. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the decision on the application. The City Council may, by reference, adopt some or all of the findings and conclusions of the Hearing Examiner.
- ii. Conditions. The City Council may, based on the record, include conditions in any ordinance approving or approving with modifications any conditional use permit, essential public facilities permit, or master planned development application in order to ensure conformance with the approval criteria specified in the code or process under which the application was made. For Zoning Map Amendments that are consistent with the Comprehensive Plan, conditions of approval shall not be included in the ordinance, but shall be included in a separate development agreement approved concurrently with the ordinance.
- iii. Required Vote. The City Council shall adopt an ordinance which approves or approves with modifications the application by a majority vote of the membership of the City Council. Decisions to deny a Type IV application shall require a majority vote of those Council members present and voting.
- iv. Notice of Decision. Notice of the City Council Decision shall be provided as outlined within RZC 21.76.080.G, *Notice of Final Decision*

P. City Council Decisions on Type V Reviews.

1. Overview. For Type V reviews, the City Council makes a final decision after receiving the recommendation of the Technical Committee and the recommendation of the Design Review Board (if required) and after holding an open record public hearing. The City Council's decision is appealable to the King County Superior Court as provided in RZC 21.76.060.R.
2. City Council Open Record Public Hearing.
 - a. Notice. Notice of the City Council's open record public hearing shall be given as provided in RZC 21.76.080.E.
 - b. Transmittal of File. The Administrator shall transmit to the City Council a copy of the department file on the application, including all written comments received prior to the City Council open record public hearing and information reviewed by or relied upon by the Administrator. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, Notice of Public Hearing, and Notice of SEPA Determination) have been met.
 - c. Participation. Any person may participate in the City Council public hearing on the Technical Committee's recommendation by submitting written comments prior to the hearing or at the hearing by providing oral testimony and exhibits at the hearing. The Council shall create a complete record of the open record public hearing, including all exhibits introduced at the hearing and an electronic sound recording of the hearing.
3. City Council Decision.
 - a. Options. The City Council shall, at the open record public hearing, consider and take final action on each Type V application. The final action may take place in the same meeting as the public hearing. The City Council shall either:
 - i. Approve the application; or
 - ii. Approve the application with modifications or conditions; or

- iii. Deny the application.
- b. Form of Decision. The City Council's decision shall be in writing and shall include the following:
 - i. Findings and Conclusions. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the decision approving the application or approving the application with modifications or conditions. The City Council may by reference adopt some or all of the findings and conclusions of the Technical Committee.
 - ii. Conditions. The City Council may, based on the record, include conditions in any ordinance approving or approving with modifications an application in order to ensure conformance with the approval criteria specified in the code or process under which the application was made.
 - iii. Notice of the Decision shall be provided as outlined within RZC Notice of the Decision shall be provided as outlined within RZC 21.76.080.G, *Notice of Final Decision*.

Q. City Council Decisions on Type VI Reviews.

- 1. Overview. The City Council shall consider and take action on all Planning Commission recommendations on Type VI reviews. The City Council may take action with or without holding its own public hearing. Any action of the City Council to adopt a Type VI proposal shall be by ordinance.
- 2. City Council Action.
 - a. Notice of City Council Proceeding. Notice shall be provided in accordance with RZC 21.76.080.J.
 - b. Initial Consideration by Council. The City Council shall consider at a public proceeding each recommendation transmitted by the Planning Commission. The Council may take one of the following actions:
 - i. Adopt an ordinance adopting the recommendation or adopt the recommendation with modifications; or
 - ii. Adopt a motion denying the proposal; or
 - iii. Refer the proposal back to the Planning Commission for further proceedings, in which case the City Council shall specify the time within which the Planning Commission shall report back to the City Council with a recommendation; or
 - iv. Decide to hold its own public hearing to take further public testimony on the proposal or in order to consider making a modification of the proposal that was not within the scope of the alternatives that could be reasonably foreseen from the notice of the Planning Commission public hearing provided under RZC 21.76.080.F.
 - c. Public Hearing and Decision. If the Council determines to hold its own public hearing, notice shall be provided; and the hearing shall be conducted in the same manner as was provided for the Planning Commission hearing on the proposal. After conducting the public hearing, the City Council shall render a final decision on the proposal as provided in subsection P.2.b.i or P.2.b.ii above.

R. Appeal of Council and Hearing Examiner Decisions on Types I - V Reviews to Superior Court. The decision of the decision maker listed in RZC 21.76.050A for ~~The decision of the City Council or Hearing Examiner on~~ Type I - V permits or reviews is the final decision of the City and may be appealed to Superior Court by filing a land use petition which meets the requirements set forth

in RCW Chapter 36.70C. No action to obtain judicial review may be commenced unless all rights of administrative appeal provided by the RZC or state law have been exhausted. **Decision types which provide for no administrative appeal (Types III through VI) may be directly appealed to the King County Superior Court.** The petition for review must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040.

- S. **Appeal of Council Decisions on Type VI Reviews to Growth Board.** The action of the City Council on a Type VI proposal may be appealed together with any SEPA threshold determination by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. The petition must be filed within the 60-day time period set forth in RCW 36.70A.290(2).

- T. **Appeal of Shoreline Master Plan Amendments and Decisions.** Appeal of Shoreline Master Plan amendments and decisions must be made to the Shoreline Hearings Board.

(Ord. 2652; Ord. 2709; Ord 2889)