

RZCRW: Clarify procedures for Technical Committee transmittal of recommendations to the Planning Commission and clarify notification procedures for Type VI permit class.

Chapter 21.76 REVIEW PROCEDURES

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21.76.010 User Guide.

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Figure 21.76.050F Flow Chart for Type VI Process
2. Link to RZC 21.76.080

(Ord. 2652; Ord. 2889; Ord. 2924; Ord. 2958)

Effective on: 4/27/2019

21.76.060 Process Steps and Decision Makers.

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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.

1. Decision. The Technical Committee’s recommendation shall be based on the decision criteria for the application set forth in the RZC. Based upon its analysis of the application, the Technical Committee may recommend approval, approval with conditions or with modifications, or denial.

2. Recommendations. The Technical Committee shall ~~make a~~ **transmit the following recommendations:**

a. Recommendations involving Type III and Type IV permits shall be transmitted to the Hearing Examiner. ~~on all Type III and Type IV reviews,~~

b. ~~a recommendation~~ Recommendations involving Type V permits shall be transmitted to the City Council. ~~on all Type V Reviews,~~

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~~c. and a recommendation~~ Recommendations involving Type VI permits shall be transmitted 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.~~

~~3. Record. A written record of the Technical Committee's recommendation shall be prepared in each case. The recommendation shall summarize the Technical Committee's analysis with respect to the decision criteria and indicate approval, approval with conditions or modifications, or denial.~~

~~4. Recommendations of the Design Review Board and/or Landmark Commission.~~ 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.

Commented [KD2]: Proposed to increase clarity and confirm consistency of implementation.

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.

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21.76.080 Notices.

A. Purpose. The purpose of this chapter is to maximize public input into the development process by providing for broad public notice of development applications, meetings, hearings, and decisions. This chapter establishes the procedures for the giving of public notices associated with development applications.

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2. The Administrator shall mail notice of the City Council public hearing, the SEPA determination, and the notice of the availability of the Technical Committee recommendation to each owner and occupant of real property within 500 feet of the project site or to 20 property owners and residents/tenants, whichever is greater; and to each person who established themselves as a party of record at any time prior to the publication of the notice of hearing.

3. The Administrator shall post the notice of the date of the public hearing and the availability of the recommendation on-site and at a designated location within City Hall and at least one other public building. The Administrator shall establish standards for size, color, layout, design, wording, and placement of the notice boards.

4. Type V Master Planned Developments are considered a major land use action. In addition to the general notice requirements, major land use actions shall comply with the extraordinary signage requirements outlined in Appendix 6.

F. Notice of ~~Planning Commission Public~~ Hearings on Type VI Reviews.

Commented [KD7]: Proposed for clarity.

1. When the Planning Commission or City Council has scheduled a public hearing on a Type VI proposal, notice of the public hearing shall be provided 21 days prior to the scheduled hearing date in the manner set forth in ~~subsection F.2 of this section Table 21.76.080A Notice of Public Hearing.~~

2. Notice of Public Hearing. The administrator shall provide public notice using communication methods in accordance with the corresponding land use action as listed in Table 21.76.080A.

Table 21.76.080A Notice of Public Hearing			
Land Use Action	Publish	Mail	Post
Comprehensive Plan Amendment	X		
Zoning Code Amendment - Text	X		

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Table 21.76.080A Notice of Public Hearing			
Land Use Action	Publish	Mail	Post
Zoning Code Amendment – Zoning Map	X	X	<u>Refer to criteria of RZC 21.76.080.5 Posted Notice for Zoning Map Amendments</u>

3. Published Notice. ~~When required, the applicable department director~~ ~~The administrator~~ shall publish a notice in a newspaper of general circulation in the City. The notice shall contain the following information:

- a. The name of the applicant, and, if applicable, the project name;
- b. If the application requires owner signatures under RZC 21.76.070.AF.4, the street address of the subject property, a description in nonlegal terms sufficient to identify its location, and a vicinity map indicating the subject property;
- c. Brief description of the action or approval requested;
- d. The date, time, and place of the public hearing; and
- e. A statement of the right of any person to participate in the public hearing as provided in RZC 21.76.060.L.2.b.

f. The location and instructions for obtaining a copy of the written record of the Technical Committee’s recommendation.

Commented [KD8]: Proposed to increase clarity and confirm consistency of implementation.

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4. Mailed Notice for Zoning Map Amendments.

a. ~~Zoning Map Amendments~~. If the application requires owner signatures under RZC 21.76.070.AF.4, notice of the public hearing, containing the same information set forth in subsection F.3 of this section, shall be mailed to each person establishing themselves as a party of record prior to notice of hearing being issued, and to each owner and occupant of real property within 500 feet of any boundary of the subject property or to 20 property owners and residents/tenants, whichever is greater.

i. The records of the King County ~~Department of Assessments~~ Department , or its successor agency shall be used for determining the property owner of record.

Commented [KD9]: Proposed for accuracy and timeliness

Addresses for a mailed notice required by this code shall be obtained from the King County real property tax records. The approval authority shall issue a certificate of mailing to all persons entitled to notice under this chapter. The approval authority may provide notice to other persons than those required to receive notice under the code.

b. Notice shall be mailed to each person who has established themselves as a party of record prior to issuance of the notice of hearing.

c. No proceeding of any procedure established in this chapter shall be found to be invalid for failure to provide mailed notice as required in this section as long as the other methods of notice have met their respective requirements and there was a good faith attempt to comply with the mailed notice requirements.

d. All public 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.

5. Posted Notice for Zoning Map Amendments.

a. ~~Zoning Map Amendments~~. If the application requires owner signatures under RZC 21.76.070.AF.4, at least one public notice board shall be posted on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent street(s).

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b. ~~Type VI Zoning Code Amendment~~— A Zoning Map **amendment** is considered a major land use action. In addition to the general notice requirements, major land use actions shall comply with the extraordinary signage requirements outlined in Appendix 6.

Commented [KD10]: To increase clarity of this paragraph.

6. Responsibility for Notice. The Administrator is responsible for providing published legal notices, mailed notice, and posted notice in public buildings. The applicant is responsible for complying with on-site posted notice requirements.

7. Alternative Means of Notification. In the case of the following actions initiated by the City, which affect large areas of the city, the Administrator may elect to use alternative means of public notification in addition to the newspaper publication required by RCW 35A.63.070, provided such notification is likely to achieve equal or greater actual public notification:

- a. Adoption or amendment of a neighborhood or other area-wide community plan;
- b. Zoning Map amendments adopted on a neighborhood or other area-wide basis.

G. Notice of Final Decision. The Administrator shall mail the Notice of Final Decision and the final SEPA determination, if any, to all parties of record. The Notice of Decision shall include a statement of any threshold determination made under SEPA and the procedures for administrative appeal, if any. For those project permits subject to SEPA, the Notice of Decision shall contain the requirements set forth in RZC 21.70, State Environmental Policy Act (SEPA) Procedures. The exception shall be for Notice of Decision for Historic Landmark Designations, which shall conform to the notice procedures found in King County Code Chapter 20.62. For Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances, see RZC 21.68.200.C.6.b and 21.68.200.C.6.c.

H. Notice of Open Record Appeal Hearings on Type I and II Permits. If a Type I or II decision is appealed, a hearing before the City Hearing Examiner shall be set and notice of the hearing shall be provided to all parties of record no less than 14 days prior to the date on which the Hearing Examiner will hold the appeal hearing; except that if the Type I or II decision has been consolidated with a recommendation on a Type III, IV, or V application, any appeal of the Type I or II decision shall be consolidated with the Type III, IV, or V public hearing. No separate notice

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of a Type I or II appeal will be provided if a public hearing has already been scheduled for the Type III, IV, or V component of an application.

I. Notice of Closed Record Appeal Proceeding Before City Council.

1. Contents of Notice. The Administrator shall prepare a Notice of Closed Record Appeal Proceeding containing the following:

- a. The name of the appellant, and, if applicable, the project name, and
- b. The street address of the subject property and a description in nonlegal terms sufficient to identify its location, and
- c. A brief description of the decision of the Hearing Examiner which is being appealed, and
- d. The date, time, and place of the closed record appeal proceeding before the City Council.

2. Time and Provision of Notice. The Administrator shall mail the Notice of Closed Appeal Proceeding to each party of record no less than 14 days prior to the date on which the Council will hold the closed record appeal proceeding.

II. Notice of ~~Closed Record City Council Proceeding Potential City Council Action~~ on Type IV and ~~City Council Proceeding on~~ Type VI Reviews. The Administrator shall mail notice of the ~~proceeding~~ at which the City Council ~~will consider the recommendation, the SEPA threshold determination, and the availability of the recommendation may take final action on a Type IV and Type VI recommendation~~ to each person who established themselves as a party of record prior to the close of public hearing by either the Hearing Examiner or Planning Commission. Notice shall be provided a minimum of 21 days prior to the meeting ~~proceeding and shall include the date, time, and location of the meeting; instructions for obtaining a copy of the Hearing Examiner or Commission's written recommendation~~. (Ord. 2652; Ord. 2709; Ord. 2803; Ord. 2978)

Commented [KD11]: Proposed to increase clarity.

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21.76.090 Post-Approval Actions.

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F. Performance Assurance..

	Bonds User Guide
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1. Purpose. The purpose of this section is to establish the requirements for the posting of performance assurance and warranty assurance in order to ensure timely and proper completion of improvements, to ensure compliance with the RZC, to ensure compliance with land use permit approval conditions, warranty the quality of materials or workmanship of improvements constructed as a condition of land use permit approval, or to warranty survival of landscaping.

2. Applicability and Exemptions.

a. Applicability. The provisions of this subsection RZC 21.76.090.F apply whenever any provision of the RZC requires the posting of performance assurance or warranty assurance in connection with any land use permit approval, including but not limited to land division approvals, land use permit approval conditions, landscaping plan approvals, tree protection, tree replacement, and critical areas mitigation.

b. Exemptions. State agencies and local government entities, including special purpose districts, shall not be required to secure the performance or warranty of permit or approval conditions with a surety bond or other performance or warranty assurance device. These public agencies are required to comply with all requirements, terms, and conditions of the permit or land use permit approval, and to provide a letter committing to completion of the improvements.

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3. General Standards.

a. Requirements. Whenever a performance or warranty assurance is required by any provision of the RZC or by any condition of land use permit approval, the performance or warranty assurance shall meet the general standards set forth in this section as well as the specific requirements set forth in subsection F.4.a below

b. Performance Assurance. The applicant shall provide an estimate of the costs of the improvements, landscaping, tree replacement, or other conditions of land use approval to be secured by the performance assurance. The Administrator shall review the estimate and shall use the same to calculate the required performance assurance amount if the Administrator deems the estimate to reflect reasonably the anticipated costs. In the event that the Administrator disagrees with the estimate, the Administrator may use the City staff's best estimate of the actual anticipated costs to calculate the required performance assurance amount.

c. Warranty Assurance. The amount of the approved warranty assurance shall be not less than 10 percent of total construction costs.

d. Form. All performance assurance and warranty assurance devices shall be in a form approved by the Administrator and City Attorney. All surety companies shall be authorized to conduct surety business in the State of Washington. No individual sureties shall be allowed.

e. Release. A performance assurance shall not be released by the Administrator unless and until the required performance has been completed and accepted by the City and the required warranty assurance, if any, has been provided. A warranty assurance shall not be released by the Administrator unless and until the work has been inspected and accepted following the warranty period.

f. Enforcement. The City may enforce the performance and warranty assurances required by this section according to their terms, pursuant to any and all legal and equitable remedies available. Any performance or warranty assurance is subject to enforcement by the City in the following manner:

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i. In the event that performance is not completed as required, or a warranty assurance is not furnished as required, or defects have been identified during the warranty period, the Administrator shall notify the applicant and the guarantor in writing, which shall set forth the performance that is incomplete, or the specific defects which must be remedied or repaired, and shall state a specific time by which such actions must be completed.

ii. In the event that the performance is not completed, or the defects are not remedied or repaired by the specified time, the City may proceed to perform the work either by force account, using City forces, or by private contractor. Upon completion of the work, the cost thereof, plus interest at the rate of 12 percent per annum, shall be due and owing to the City from the applicant and the guarantor as a joint and severable obligation. In the event that the City is required to bring suit to enforce maintenance, the applicant and guarantor shall be responsible for any costs and attorney's fees incurred by the City as a result of the action.

iii. In the event that the performance or warranty assurance is in the form of a deposit of cash held by the City, the City may deduct all costs set forth in this subsection from the cash on deposit; and the applicant and guarantor shall be required to replenish the same for the duration of the assurance period.

4. Performance and Warranty Assurance for Improvements, Landscaping, Tree Protection, Tree Replacement, and Critical Areas.

a. Land use permit applicants shall post performance and warranty assurances as required in the Table below:

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Table 21.76.090 Performance and Warranty Assurances					
Assurance Type	Performance Assurance Amount	Performance Assurance Period	Warranty Assurance Amount	Warranty Assurance Period	Specific Standards
Improvements required as a condition of land use permit approval	Not less than 150 percent of the estimated cost of construction of installation, provided, that the City Engineer or Administrator may set a higher amount based on complexity of the project.	Subdivisions - 3 years after final plat approval. Other land use permit approvals - as required by condition.	As determined by City Engineer based on complexity of project, but a minimum of 10 percent of total construction costs.	1 year	Subdivision improvement performance assurance must be furnished prior to recording of final plat. Performance assurance for other land use permit approvals must be furnished prior to final approval. Warranty assurance must be posted prior to City's acceptance of improvements or determination of compliance with condition of approval.
Landscape	150 percent of cost of plant materials, irrigation, fertilizing, and labor	1 year	10 percent of the Performance Security	one year after installation	None
Tree Protection	150 percent of City's Tree Base Fee for each protected tree	5 years	N/A	N/A	Prior to issuance of the certificate of occupancy, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified under RZC 21.72, Tree Preservation.
Tree Replacement	150 percent of cost of plant materials, fertilizing,	1 year	150 percent of cost of plant materials,	3 years	In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be

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Table 21.76.090 Performance and Warranty Assurances					
Assurance Type	Performance Assurance Amount	Performance Assurance Period	Warranty Assurance Amount	Warranty Assurance Period	Specific Standards
	pruning, and labor		fertilizing, pruning and labor		replaced according to the standards in RZC 21.72, Tree Preservation.
Critical Area Mitigation	125 percent of cost of mitigation project (installation, maintenance and monitoring)	5 years	N/A	N/A	The security may be reduced in proportion to work successfully completed over the security period which shall coincide with the monitoring period and may be extended if the mitigation project does not succeed. A contingency plan for mitigating the impacts of the functions and values of the critical area shall be established in the event that the mitigation plan fails.
Green Building	1 percent of the projected building value for commercial and multifamily projects 0.75 percent of the projected building value	2 years	N/A	N/A	None

Commented [KD12]: Amendment reflecting refinements to Green Building Incentive Program chapter.

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Table 21.76.090 Performance and Warranty Assurances					
Assurance Type	Performance Assurance Amount	Performance Assurance Period	Warranty Assurance Amount	Warranty Assurance Period	Specific Standards
	<u>for single family projects</u>				

(Ord. 2958)

Effective on: 4/27/2019

21.76.100 Miscellaneous.

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