

ORDINANCE NO. _____

AN ORDINANCE relating to the permit review process; amending the section relating to definitions; amending the section relating to exemptions; amending the section relating to types of project permit applications; amending the section relating to project permit application processing framework; amending the section relating to submission and acceptance of application; amending the section relating to notice of project permit application; amending the section relating to planning commission actions; amending the section relating to Board of County Commissioners; amending the section relating to final decision; amending Ordinance 281, Section 4 and BCC 17.10.030; amending Ordinance 281, Section 5 and BCC 17.10.040; amending Ordinance 281, Section 6, Ordinance 614, Section 1 and BCC 17.10.050; amending Ordinance 281, Section 7 and BCC 17.10.060; amending Ordinance 281, Section 10, Ordinance 388, Section 2, Ordinance 405, Section 2, Ordinance 573, Section 1, Ordinance 625, Section 1 and BCC 17.10.090; amending Ordinance 281, Section 11 and BCC 17.10.100; amending Ordinance 281, Section 14 and BCC 17.10.130; amending Ordinance 281, Section 15, Ordinance 558, Section 6 and BCC 17.10.140; and Ordinance 281, Section 16, Ordinance 368, Section 1, Ordinance 372, Section 1, Ordinance 503, Section 2 and BCC 17.10.150.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 281, Section 4 and BCC 17.10.030 are hereby amended to read as follows:

DEFINITIONS. The following definitions shall apply to this Title:

(a) "Building Department Manager" means the Manager of the Benton County Building Department or appointed designee.

(b) "Closed Record (~~((Appeal))~~) Hearing" means a ~~a((n))~~ hearing conducted by ((appeal-to)) the Benton County Board of Commissioners, on the record where no new evidence or information being submitted, ~~((of-a)) to render a decision ((made following an open record hearing on a project permit application))~~.

(c) "County" means the County of Benton, a political subdivision of the State of Washington.

(d) "Open Record Hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

(e) "Planning Director/Administrator" means the Manager of the Benton County Planning Department or appointed designee.

(f) "Project Permit Application" means any application made for a permit, license or approval required in connection with a proposed land use action. This includes, but is not limited to, ~~((building permits))~~, subdivisions, planned unit developments, special permits, conditional use permits, shoreline substantial development permits, approvals required by critical area ordinance, or site specific rezones ~~((authorized by a comprehensive plan or subarea plan))~~ which do not require a

comprehensive plan amendment. The adoption of or amendments to a comprehensive plan, subarea plan, or development regulations are not classified as project permit applications.

SECTION 2. Ordinance 281, Section 5 and BCC 17.10.040 are hereby amended to read as follows:

EXEMPTIONS. (a) The following project permit applications are exempt from the provisions contained within this Title:

- (1) Applications for street vacations.
- (2) Applications for approval relating to the use of public areas or facilities, including encroachment permits.
- (3) Completed project permit applications received before the effective date of this Title.
- (4) Projects for interior alterations are excluded from BCC 17.10, provided that the interior alterations do not result in the following:

- (i) Additional sleeping quarters or bedrooms;
- (ii) Nonconformity with federal emergency management agency substantial improvement thresholds;
- (iii) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.
- (iv) Nothing in this section exempts interior alterations from otherwise applicable portions of BCC Title 3 "Building and Construction".
- (v) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

(b) Pursuant to RCW 36.70B.140(2), project permit applications for boundary line adjustments, building permits, short plat exemptions, and similar administrative approvals which are categorically exempt from environmental review under RCW 43.21C and Chapter 6.35 BCC, or for which environmental review has been completed in connection with other project permit applications, are not subject to the following procedures:

- (1) Determination of completeness (BCC 17.10.090);
- (2) Notices of application (BCC 17.10.100);
- (3) Optional consolidated project permit review processing (BCC 17.10.070);
- (4) The right to a joint public hearing (BCC 17.10.080).

(c) The following decisions are legislative and are not subject to the procedures in this chapter, unless otherwise specified:

- (1) Zoning code text amendments; and
- (2) Adoption of development regulations and amendments; and
- (3) Area-wide rezones to implement new County policies; and

- (4) Adoption of a comprehensive plan and any plan amendments; and
- (5) Annexations.

SECTION 3. Ordinance 281, Section 6, Ordinance 614, Section 1 and BCC 17.10.050 are hereby amended to read as follows:

TYPES OF PROJECT PERMIT APPLICATIONS. For the purpose of project permit application review processing, all project permit applications shall be classified as shown in Table 17-1 below.

Table 17-1 Project Permit Application Types

Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
FACTORY ASSEMBLED STRUCTURES INSTALLATION AND PLACEMENT PERMITS	BUILDING/ SIGN PERMITS	BOUNDARY LINE ADJUSTMENT	FLOODPLAIN DEVELOPMENT PERMIT OR FLOODPLAIN PUBLIC UTILITY DISTRICT	CONDITIONAL USE PERMIT	SHORT PLAT VACATION	((PLANNED DEVELOPMENT PERMIT))
		CHILD DAY CARE FACILITY, TYPE A - PERMIT	AMENDED ((SHORT PLAT)) SHORT SUBDIVISION	((SPECIAL USE PERMIT))	((SUBDIVISION ALTERATION))	((PRELIMINARY PLAT))
		HOME OCCUPATION PERMIT	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT	SHORELINE CONDITIONAL USE PERMIT	SUBDIVISION VACATION	SITE SPECIFIC ZONE CHANGE
		TEMPORARY DWELLING PERMIT	CRITICAL AREA PROJECT REVIEW	SHORELINE VARIANCE PERMIT		
		MULTIPLE DETACHED DWELLING PERMIT	COMMUNICATION FACILITIES PERMIT	ZONING CODE VARIANCE		
		TEMPORARY OUTDOOR RETAIL SALES PERMIT	MINERAL RESOURCE PROTECTION DESIGNATION	FLOODPLAIN DEVELOPMENT VARIANCE		
		NON-COMMERCIAL MINERAL EXTRACTION PERMIT		CRITICAL AREA REASONABLE USE EXCEPTION		
		MINOR SETBACK VARIATIONS		CRITICAL AREA PUBLIC AGENCY/UTILITY EXCEPTION		
		SUBDIVISION EXEMPTION		PRELIMINARY SUBDIVISION		
		LOT CONSOLIDATION		MAJOR SUBDIVISION AMENDMENT		
		ATTACHED ACCESSORY DWELLING PERMIT				
		SHORT ((PLAT)) SUBDIVISION				
		MINOR SHORT SUBDIVISION/SUB DIVISION AMENDMENTS				

SECTION 4. Ordinance 281, Section 7 and BCC 17.10.060 are hereby amended to read as follows:

PROJECT PERMIT APPLICATION PROCESSING FRAMEWORK. Table 17-2 below shows the general process and hearing body for each category of project permit application. Except as otherwise required under BCC 17.10.070, the administrative process for each project permit

application is governed by the Benton County Code provisions governing the application at issue.

Table 17-2 - Project Permit Applications - Administrative Process

	Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
Recommendation made by	N/A	N/A	N/A	N/A	N/A	N/A	Planning Commission
Final Decision made by	Building Department Manager	Building Department Manager	Planning Director	Planning Director	Hearings Examiner	Board of County Commissioner	Board of County Commissioner
Notice of Application	No	Yes, if SEPA required	~~((No))~~ Yes, if SEPA is required	Yes, if SEPA required. Yes for all SSUP.	Yes(~~((if SEPA required))~~)	Yes, if SEPA required	Yes
Open Record Public Hearing	No	If appealed, open record hearing before Board of appeals	If appealed, open record hearing before Hearing Examiner	If appealed, open record hearing before Hearings Examiner	Yes, before Hearings Examiner	Yes, before Board of County Commissioner	Yes, before Planning Commission
Closed Record ~~((Appeal))~~ Hearing/Final Decision	No	No	No	No	No	No	Yes, Before Board of County Commissioner
Judicial Appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes

SECTION 5. Ordinance 281, Section 10, Ordinance 388, Section 2, Ordinance 405, Section 2, Ordinance 573, Section 1, Ordinance 625, Section 1 and BCC 17.10.090 are hereby amended to read as follows:

SUBMISSION AND ACCEPTANCE OF APPLICATION. (a) Within twenty-eight (28) days after receiving a project permit application, the County shall ~~((review the application and mail or personally deliver a written determination to the applicant stating that the application is complete or that the application is incomplete and identifying what is necessary to make the application complete.))~~ provide a written determination to the applicant stating that:

- (1) That the application is complete; or
- (2) That the application is incomplete and that the procedural submission requirements of the County have not been met. If the application is deemed incomplete, the written determination shall outline what is necessary to make the application procedurally complete.

(b) A project permit application shall be declared complete only when it ~~((contains all the following materials:))~~ meets the procedural submission requirements as outlined in the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the County.

- ~~((1) Payment of all applicable fees;~~
- ~~((2) A completed project permit application signed by the applicant(s) and all persons with an ownership interest (as that term is defined by BCC 9.02.040(26)) in the parcel(s) on which the land use action is proposed; provided, (i) holders of mineral rights separate and apart from the ownership of the surface estate shall also be required to sign petitions for change of classification, and (ii) if the ownership of mineral rights for a parcel is separate and apart from ownership of the surface estate, then only holders of mineral rights shall be required to sign applications for permits for mineral extraction.~~

~~(3) A completed and signed environmental checklist for projects subject to review under RCW 43.21C;~~

~~(4) The information specified for the desired permit, license or approval as required by the applicable provisions of the Benton County Code; and,~~

~~(5) Any supplemental information or special studies as required by the Planning Director.))~~

(c) The determination of completeness shall not preclude the county from requiring additional information or special studies at any time prior to project permit approval if new information is required or substantial changes in the proposed action occur.

~~((+e))~~ (d) To the extent known by the County, other agencies with jurisdiction over a project permit application shall be identified in the County's written determination required in BCC 17.10.090 (a).

(e) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application if the County does not provide a written determination to the applicant that the application is procedurally complete.

~~((+d))~~ (f) If a project permit application is determined to be incomplete, the applicant shall submit the additional necessary information requested. Within fourteen (14) days of receipt of the additional information from the applicant, the County shall issue a written determination of completeness or identify what remaining information is required. If the applicant either refuses in writing to submit additional information or does not submit the required information within the ninety (90) days, the application shall lapse.

SECTION 6. Ordinance 281, Section 11 and BCC 17.10.100 are hereby amended to read as follows:

NOTICE OF PROJECT PERMIT APPLICATION. (a) Within fourteen (14) days of issuing a written determination of completeness under BCC 17.10.090, the County shall issue a notice of project permit application for (i) all Type VII project permit applications; and (ii) Type II, IV, V and VI project permit applications that are not categorically exempt from environmental review under RCW 43.21C.

(b) The notice shall include at least the following:

(1) The name and/or address of the applicant.

(2) Date of application.

(3) The date of the written determination of completeness.

(4) The location of the proposed project.

(5) The requested approval, actions, and/or required studies.

(6) The public comment period, which shall be not less than fourteen (14) nor more than thirty (30) days.

(7) A project description.

(8) The contact person for additional information.

(9) The date, time, and place of an open record hearing, if one has been scheduled.

(c) The notice shall be published in ~~((a newspaper of general circulation in))~~ the newspaper of record for Benton County and mailed to all recorded owners of real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of the outer boundaries of the parcel described in the project permit application.

(d) If an open record hearing is to be held with respect to a project permit application, the required notice of application shall be published and mailed at least fifteen (15) days prior to such hearing.

(e) Notwithstanding BCC 17.10.100(c), notice of a project permit application under the purview of the Benton County Shoreline Master Program shall be given by at least one of the following methods:

(1) Mailing of the notice to the recorded owners of real property, as shown by the records of the County Assessor, within three hundred (300) feet of the boundary of the property upon which the substantial development is proposed;
or

(2) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(3) Any other manner deemed appropriate by the County to accomplish the objectives of reasonable notice to adjacent landowners and the public.

(f) Notwithstanding BCC 17.10.100(b), any notice of a project permit application under the purview of the Benton County Shoreline Master Program shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit comments or request for decision to the County within thirty (30) days of the last date the notice is to be published pursuant to this BCC 17.10.100. The County shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision. If a hearing is to be held on an application, notice of such hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(g) The public comment period to be identified in a notice under BCC 17.10.100(f) with respect to project permit applications for substantial development permits for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion, shall be twenty-one (21) days. The notice shall include the manner in which the public may obtain a copy of the decision on the project permit application, no later than two (2) days following its issuance.

SECTION 7. Ordinance 281, Section 14 and BCC 17.10.130 are hereby amended to read as follows:

PLANNING COMMISSION ACTIONS. (a) The Benton County Planning Commission shall conduct an open record hearing on ~~((Type VII))~~ any project permit applications for which it is charged with conducting such hearings and any appeals of the adequacy of a Final

or Supplemental EIS issued in connection therewith. Environmental threshold determinations shall be made at least fifteen (15) days prior to its open record hearing.

(b) The Planning Commission shall prepare and adopt findings, conclusions and recommendations on Type VII project permit applications and appeals of Final or Supplemental EIS adequacy and promptly forward them to the Benton County Board of Commissioners.

SECTION 8. Ordinance 281, Section 15, Ordinance 558, Section 6 and BCC 17.10.140 are hereby amended to read as follows:

BOARD OF COUNTY COMMISSIONERS. (a) Upon receiving a recommendation from the Planning Commission or notice of any matter requiring the attention of the Board of County Commissioners, the Board shall make final decisions on all Type ~~((VI and))~~ VII project permit applications and on appeals of the adequacy of a Final or Supplemental EIS issued in connection therewith, provided the Board may not hold an open record hearing if an open record hearing was held by the Planning Commission on the project permit application. If no open record hearing is held by the Board of County Commissioners, the Board will make its decisions after a closed record ~~((appeals))~~ hearing.

(b) The Benton County Board of Commissioners shall make its final decision by motion, resolution, or ordinance as appropriate. The final decision of the Benton County Board of Commissioners shall be effective on the date stated in the decision, motion, resolution, or ordinance, provided that the date from which the appeal period shall be calculated shall be the date the Board makes written determination on the project permit application. The notice of decision for project permit applications considered by the Board shall be mailed to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

SECTION 9. Ordinance 281, Section 16, Ordinance 368, Section 1, Ordinance 372, Section 1, Ordinance 503, Section 2 and BCC 17.10.150 are hereby amended to read as follows:

FINAL DECISION. ~~((a) Unless a longer period is agreed to by the applicant or unless the Planning Director or the final decision maker for an application makes written findings justifying a need for a specified additional amount of processing time, final decisions on Type I through Type VII project permit applications, except for short plat, preliminary plat, and attached communication facility applications, shall be made within one hundred twenty (120) days after the date the County sends the applicant notice by mail or personally serves notice on the applicant that the application is complete.))~~ 1. Timelines for issuance of specific project permit types are as follows:

(a) For Type I and II project permits which do not require public notice, the County must issue a final decision within 65 days of the determination of completeness under BCC 17.10.090(a).

(b) For Type II, III, and IV project permits which require public notice, the County must issue a final decision within 100 days of the determination of completeness under BCC 17.10.090(a).

(c) For Type V, VI, and VII project permits which require public notice and a public hearing, the County must issue a

final decision within 170 days of the determination of completeness under BCC 17.10.090(a).

2. The number of days an application is in review with the County shall be calculated from the day completeness is determined under BCC 17.10.090(a) to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

(a) Any period between the day that the County has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant; and

(b) Any period after an applicant informs the County, in writing, that they would like to temporarily suspend review of the project permit application until the time that they applicant notifies the County, in writing, that they would like to resume the application; and

(c) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

3. The time periods for the County to process a project permit set forth in BCC 17.10.150(1) shall start over if the applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the County.

4. If at any time the applicant informs the County in writing, that they applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the County has notified the applicant, in writing, that additional information is required to further process the applicant, an additional 30 days may be added to the permit timelines for the County to issue a final decision, as set forth in BCC17.10.150(1). Any written notice from the County to the applicant that additional notice is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in the 30 days being added to the time for review.

"Nonresponsiveness" for the purposes of this chapter means that the applicant is not making demonstrable progress on providing additional requested information to the County, or that there is no ongoing communication from the applicant to the County on the applicant's ability or willingness to provide the additional information.

5. Annual amendments to the comprehensive plan are not subject to the requirements of this section.

~~((b) Unless a longer period is agreed to by the applicant or unless the Planning Director or the final decision maker for an application makes written findings justifying a need for a specified additional amount of processing time, (i) final decisions on short plat applications shall be made within thirty (30) days; and (ii) final decisions on applications for preliminary plats and attached communication facilities, as defined in Benton County Code, Chapter 11.04, shall be made within ninety (90) days after the date the County sends the applicant notice by mail or~~

~~personally serves notice on the applicant that the application is complete.))~~

~~((+e+))~~ 6. If a project permit application of any type is deemed materially revised by the Planning Director, the time limits set forth in BCC 17.10.150 ~~((+a) and BCC 17.10.150(b))~~ shall be calculated from the time that the Planning Director determines the revised application is complete and not from the date of the initial determination of completeness.

~~((+d) Unless otherwise agreed upon by the applicant, all closed record administrative appeals shall be decided within sixty (60) days of the filing of the appeal.))~~

~~((+e+))~~ 7. Unless otherwise agreed upon by the applicant, all administrative appeals based on an open record appeal hearing shall be decided within ninety (90) days of the filing of the appeal.

~~((+f+))~~ 8. If a notice of decision or appeal decision will not be issued in accordance with this section, the County shall provide a written notice to the applicant stating the reasons why a notice of decision will not be issued within the required time period and an estimated date of issuance of a decision.

SECTION 10. Severability. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 11. Effective Date. This ordinance shall take effect and be in full force on January 1, 2027.

ADOPTED AND PASSED this _____ day of _____.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Approved as to Form:



Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board