

CHAPTER 4.12 PERMIT PROCESS

4.12.010: Findings.

The City Council finds and declares the following:

- (1) As the number of environmental laws and development regulations has increased for land uses and development, so has the number of required land use permits, each with its own separate approval process.
- (2) The increasing number of local and state land use permits and separate environmental review processes required by agencies has generated continuing potential for conflict, overlap, and duplication between the various permit and review processes.
- (3) This regulatory burden has significantly added to the cost and time needed to obtain local and state land use permits and has made it difficult for the public to know how and when to provide timely comments on land use proposals that require multiple permits and have separate environmental review processes.

(Ord. 3642 Sec. 1, 1996)

4.12.015: Applicability.

These rules apply to all land use permits under Titles 5, 15, 17, and 18, and to any related regulation implementing these provisions or any other ordinance or law. Unless another department is the primary agency in a permit process, the Director of Planning administers those chapters and may adopt such rules as will assist in administering these provisions.

(Ord. 3642 Sec. 1, 1996)

4.12.020: Definitions.

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

- (1) *Closed Record Appeal* means an administrative appeal on the record following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.
- (2) *Director* means the Director of Planning unless another department or agency is in charge of the project permit in which case it refers to the chief administrative officer of that department or agency.
- (3) *Open Record Hearing* means a hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information. An open record hearing may be held prior to a decision on a project permit to be known as an "open record pre-decision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record pre-decision hearing has been held on the project permit.
- (4) *Project Permit* or *Project Permit Application* means any land use or environmental permit or license required from the City for a project action, including, but not limited to, building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.
- (5) *Public Meeting* means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to a decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The

proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

(Ord. 3642 Sec. 1, 1996)

4.12.030: Purpose.

In enacting Sections 4.12.040 and 4.12.050, the City Council intends to establish a mechanism for implementing the provisions of Chapter 36.70A RCW regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations. In order to achieve this purpose the City Council finds that:

- (1) Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify residential density in urban growth areas, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under Chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.
- (2) Comprehensive plans and development regulations adopted by the City under Chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of critical areas. When a permitting agency applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts will be avoided or otherwise mitigated. Through the integrated project review process described in subsection (1) of this Section, the Director will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. Project review should not require additional studies or mitigation under Chapter 43.21C RCW where existing regulations have adequately addressed a proposed project's probable specific adverse environmental impacts.
- (3) Consistency should be determined in the project review process by considering four factors found in applicable regulations or plans: The type of land use allowed; the level of development allowed, such as units per acre or other measures of density; infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and the character of the proposed development, such as compliance with specific development standards. This uniform approach corresponds to existing project review practices and will not place a burden on applicants or local government. The City intends that this approach should be largely a matter of checking compliance with existing requirements for most projects, which are simple or routine, while more complex projects may require more analysis.
- (4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project, by development regulations under Chapter 36.70A RCW, and by the environmental process under Chapter 43.21C RCW run concurrently and not separately.
- (5) The project review process should address consistency between a proposed project and the applicable regulations or plan:
 - (a) A uniform framework for the meaning of consistency;

- (b) An emphasis on relying on existing requirements and adopted standards, with the use of supplemental authority as specified by Chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts; and
- (c) The identification of three basic land use planning choices made in applicable regulations or plans that, at a minimum, serve as a foundation for project review and that should not be reanalyzed during project permitting.

(Ord. 3642 Sec. 1, 1996)

4.12.040: Scope of Review.

- (1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted Comprehensive Plan, under Section 4.12.050 shall incorporate the determinations under this section.
- (2) During project review, the Director or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted Comprehensive Plan. At a minimum, such applicable regulations or plans shall be determinative of the:
 - (a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;
 - (b) Density of residential development in urban growth areas; and
 - (c) Availability and adequacy of public facilities identified in the Comprehensive Plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW.
- (3) During project review, the Director shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section including issues of code interpretation.
- (4) The Director may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.
- (5) Nothing in this section limits the authority of the City to approve, condition, or deny a project as provided in its development regulations adopted under Chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(Ord. 3642 Sec. 1, 1996).

4.12.050: Project Consistency.

- (1) A proposed project's consistency with development regulations adopted under Chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate elements of the Comprehensive Plan or subarea plan adopted under Chapter 36.70A RCW shall be determined by consideration of:
 - (a) The type of land use;
 - (b) The level of development, such as units per acre or other measures of density;
 - (c) Infrastructure, including public facilities and services needed to serve the development; and
 - (d) The character of the development, such as development standards.

- (2) In determining consistency, the determinations made pursuant to Section 4.12.040 of this Chapter shall be controlling.
- (3) For purposes of this Section, the term "consistency" shall include all terms used in this Chapter and Chapter 36.70A RCW to refer to performance in accordance with this Chapter and Chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.
- (4) Nothing in this Section requires documentation, dictates procedures for considering consistency, or limits the Director from asking more specific or related questions with respect to any of the four main categories listed in subsection (1)(a) through (d) of this Section.

(Ord. 3642 Sec. 1, 1996)

4.12.055: Project Concurrency.

- (1) Concurrency is defined by GMA to mean that needed improvements for water, sewer, and transportation for development proposals are in place at the time of development; or in the case of transportation, that a financial commitment exists to complete the improvements within six years.
- (2) The concept of concurrency is based on maintenance of specified levels of service (LOS) for water, sewer, and transportation. Level of service standards represents the minimum performance level desired for transportation facilities and services, and the minimum availability of water and sewer.
- (3) Development permit or project permit means any land use permit required from the City for a project action, including, but not limited to, subdivisions, site plans designated as Tier 2 or Tier 3, planned unit developments, conditional uses, shoreline substantial development permits, but excluding non-site specific development permits such as the adoption or amendment of a comprehensive plan, subarea plan, or development regulations.
- (4) The following development permit applications shall be subject to a finding of approval for concurrency conducted in the processing of the development permit application:
 - (a) Preliminary plat (subdivision of ten or more residential lots);
 - (b) Site plans designated as Tier 2 or Tier 3;
 - (c) Any other land use plan or permit which would increase the demand for transportation facilities by 50 or more peak hour trips per day (based upon the latest ITE Trip Generation Manual or other data, including LOS, as approved by the City's traffic engineer).

CITY OF KENNEWICK LOS FOR TRANSPORTATION	
	LOS
Signalized Intersections - Existing	Level of Service "D"
Unsignalized Intersections or Driveways - Minor Street Approach	Level of Service "E"
Signalized or Unsignalized Intersection with Second Site Access Point within ¼ mile having a LOS D or better	Level of Service "F"

- (d) Any land use plan or permit that would increase the demand for potable water and/or the demand for sewer requirements above the LOS indicated within the following table for domestic use, or the current water and sewer system plans for commercial or industrial use.

CITY OF KENNEWICK LOS FOR WATER AND SEWER	
	LOS
Domestic Water	170 gallons per capita per day
Domestic Sewer	120 gallons per capita per day
Commercial or Industrial Water and Sewer	Per Water and Sewer System Plan

- (5) If project concurrency for transportation, as defined in Section 4.12.055(1) cannot be met, WAC 365-195-510(1) requires that the project must be denied unless the applicant does one or both of the following to the satisfaction of the City Traffic Engineer or designee:

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- (a) Amend the application to reduce the need for capacity improvements of transportation facilities in order to maintain the adopted level of service; or
 - (b) Arrange to provide capacity for transportation facilities that is not otherwise available.
- (6) The following development permits are exempt from this section and applicants may submit applications, obtain permits, and commence development without a finding of approval for concurrency, unless otherwise determined by the Director:
- (a) Uses that were disclosed in a completed application filed before the effective date of this section;
 - (b) Any land use plan or permit that would not increase the demand for transportation facilities by more than 50 peak hour trips per day unless the affected transportation facilities are operating at, or lower than, the adopted level-of-service for the facility;
 - (c) Any land use plan or permit that would increase the demand for potable water and/or the demand for sewer requirements by less than those provided within the current water and sewer system plans.
- (7) When required as per KMC 4.12.055(3), the City shall not issue a development permit until:
- (a) A finding of approval for concurrency has been made in accordance with established transportation, water and sewer levels of service and a certificate of concurrency has been issued; or
 - (b) The application has been determined to be exempt from the concurrency requirement as provided in subsection (6) of this section.
- (8) A finding of approval for concurrency, to determine if adequate capacity exists, shall be provided by the City Traffic Engineer or designee for transportation; and for water and sewer by the Utilities Services Manager or designee, for developments not otherwise exempt from the requirements of this section.
- (9) The level of service standards for transportation facilities adopted in KAC 13.08.030(5) Design Level-of-Service and as amended, will be used in conducting the concurrency test.
- (10) The levels of service standards for water and sewer service, as adopted in the Water and Sewer Plan and as amended, will be used in conducting the concurrency test.
- (11) A finding of approval for concurrency:
- (a) Is valid only for the development permit with which it was issued and for subsequent development permits for the same property as long as the applicant obtains the subsequent development permit and where the use or intensity has not changed and the previous development permit has not expired; and
 - (b) Will be valid for the same period of time as the development permit with which it was issued; and
 - (c) Can be extended for the same time as a development permit's extension; and
 - (d) Runs with the land and cannot be transferred to a different property but transfers automatically with ownership of the property; and
 - (e) Shall expire if the underlying development permit expires or is revoked or denied by the City and has not been extended to a subsequent development permit for the same property.
- (12) A finding of approval for concurrency shall be an administrative action of the City and is categorically exempt from the State Environmental Policy Act (SEPA).
- (13) Projects not meeting the minimum threshold for concurrency review for sewer, water, or transportation are not exempt from other mitigation measures that would be determined during the normal development approval process.

(Ord. 5179 Sec. 1, 2007)

4.12.060: Note of Complete Application.

- (1) Within 28 days after receiving a project permit application, the Director shall mail or provide in person a written determination to the applicant, stating either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.To the extent known by the Director, he shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.
- (2) A project permit application is complete for purposes of this section when it meets the City's procedural submission requirements and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
- (3) The determination of completeness may include the following as optional information:
 - (a) A preliminary determination of those development regulations that will be used for project mitigation;
 - (b) A preliminary determination of consistency, as provided under Section 4.12.050; or
 - (c) Other appropriate information.
- (4)
 - (a) An application shall be deemed complete under this section if the Director does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section.
 - (b) Within 14 days after an applicant has submitted additional information identified as being necessary for a complete application, the Director shall notify the applicant whether the application is complete or what additional information is necessary.

(Ord. 3642 Sec. 1, 1996)

4.12.070: Determining Time Limits.

- (1) Except as otherwise provided in subsection (2) of this section, the Director shall issue its notice of final decision on a project permit application within 120 days after it notifies the applicant that the application is complete, as provided in Section 4.12.060. In determining the number of days that have elapsed after the Director has notified the applicant that the application is complete, the following periods shall be excluded:
 - (a)
 - (i) Any period during which the applicant has been requested to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the Director notifies the applicant of the need for additional information until the earlier of the date the Director determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided;
 - (ii) If the Director determines that the information submitted by the applicant under (a)(i) of this subsection is insufficient, he shall notify the applicant of the deficiencies and the procedures under (a)(i) of this subsection shall apply as if a new request for studies had been made;
 - (b) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW;
 - (c) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for considering and deciding shall not exceed:
 - (i) Ninety days for an open record appeal hearing; and

- (ii) Sixty days for a closed record appeal.
The parties to an appeal may agree to extend these time periods; and
- (d) Any extension of time mutually agreed upon by the applicant and the Director.
- (2) The time limits established by subsection (1) of this section do not apply if a project permit application:
 - (a) Requires an amendment to the Comprehensive Plan or a development regulation;
 - (b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200; or
 - (c) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under Section 4.12.060.
- (3) If the Director is unable to issue its final decision within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

(Ord. 3642 Sec. 1, 1996)

4.12.075: Expiration of Applications and Permits.

- (1) Incomplete Application/Additional Information.
 - (a) The application shall expire if the applicant fails to provide the required information within 90 days of the following:
 - (i) The date the application is determined incomplete per Section 4.12.060(1)(b); or
 - (ii) The date a written request for additional information is made regarding an application that is determined complete.
 - (b) Expired applications must be resubmitted as new applications requiring repayment of all applicable fees.
 - (c) Prior to the expiration date, the applicant may request, in writing, an extension of time. The Director may grant a 90-day extension on a one-time basis if the required studies or information warrant additional time.
- (2) Permits.
 - (a) Absent statute or ordinance provisions to the contrary, and excluding Subdivisions (KMC 17.10 Platting), any application for which a conditional approval has been made and for which no substantial progress has been made to meet permit approval requirements for a period of 180 days after the permit's conditional approval, the application will expire and become null and void.
 - (i) Phased Site Plans: Phased site plans shall expire in accord with KMC 4.12.075(2)(a). In addition, once a phase is completed and a Certificate of Occupancy is issued, the application will expire and become null and void if an application for final site plan approval for another phase is not applied for within 190 days.
 - (b) Expired applications must be resubmitted as new applications requiring repayment of all applicable fees.
 - (c) Prior to the expiration date, the applicant may request, in writing, an extension of time. The Director shall grant a 180-day extension on a one-time basis.

(Ord. 5644 Sec. 1, 2016; Ord. 5468 Sec. 1, 2012)

4.12.080: Agent.

The Director may require the applicant for a project permit to designate a single person or entity to receive determinations and notices required by this Chapter.

(Ord. 3642 Sec. 1, 1996)

4.12.090: Public Notice.

- (1) The Director shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If the Responsible Official has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.
- (2) The notice of application shall be provided within 14 days after the determination of completeness as provided in Section 4.12.060 and include the following in whatever sequence or format the local government deems appropriate:
 - (a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;
 - (b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under Section 4.12.060 or Section 4.12.070;
 - (c) The identification of other permits not included in the application to the extent known;
 - (d) The identification of existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed, and any information applicable to the optional DNS process (WAC 197-11-355);
 - (e) A statement of the public comment period, which shall be not less than 15 nor more than 30 days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. The Director may accept comments at any time prior to the closing of the record of an open record pre-decision hearing, if any, or, if no open record pre-decision hearing is provided, prior to the decision on the project permit;
 - (f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;
 - (g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in Section 4.12.050; and
 - (h) Any other appropriate information.
- (3) If an open record hearing is required for the requested project permits, the notice of application shall be provided at least 15 days prior to the open record hearing.
- (4) The Director shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. The Director may use different types of notice for different categories of project permits or types of project actions. If not otherwise specified, the Director shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:
 - (a) Posting the property for site-specific proposals;
 - (b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the

- newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
 - (d) Notifying the news media;
 - (e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;
 - (f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and
 - (g) Mailing to neighboring property owners.
- (5) A notice of application shall not be required for project permits that are categorically exempt under Chapter 43.21C RCW, unless a public comment period or an open record hearing is required.
 - (6) The Director shall integrate the permit procedures in this section with environmental review under Chapter 43.21C RCW as follows:
 - (a) Except for a determination of significance, the Director may not issue its threshold determination, or issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.
 - (b) If an open record hearing is required and the threshold determination requires public notice under Chapter 43.21C RCW, the Director shall issue its threshold determination at least 15 days prior to the open record hearing.
 - (c) Comments shall be as specific as possible.
 - (7) The Director may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the geographic boundary of the City. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in Chapter 4.12.070 or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings.
 - (8) The Director shall cooperate to the fullest extent possible with other agencies in holding a joint hearing if requested to do so, as long as:
 - (a) The agency is not expressly prohibited by statute from doing so;
 - (b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and
 - (c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the City's hearing.
 - (9) An administrative appeal of the project decision, combined with any environmental determinations, shall be filed within 14 days after the notice of the decision or after other notice that the decision has been made and is appealable. The appeal period shall be extended for an additional seven days, if state or local rules adopted pursuant to Chapter 43.21C RCW allow public comment on a determination of non-significance issued as part of the appealable project permit decision.
 - (10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.
 - (11) Required public notification methods (see chart below).

PUBLIC NOTICES AND LAND USE PROCEDURES											
Action	Notification by Direct Mailing	Sign age or Posting	Legal Notice in Classifieds	Notif y Groups With Kno	No Public Notificat ion Require ments	Public Com ment Perio d	Pre- Decis ion Meeting	Open Recor d Heari ng	Decisi on	Open Record Appeal	Clos ed Rec ord App eal

				wn Inter ests						
Building Permit					*				Staff	Mid-Columbia Board of Appeals Commission (MCBA C) BOAB
FAA Form 7660					*				Staff	Hearing Examiner BOA
Lot Line Adjustment					*				Staff	Hearing Examiner BOA
Accessory Apartment					*				Staff	Hearing Examiner BOA
Comparable Use				*					Staff	Hearing Examiner BOA
Manufactured Housing In-fill					*				Staff	Hearing Examiner BOA
Parcel Combination					*				Staff	Hearing Examiner BOA
Home Occupation					*				Staff	Hearing Examiner BOA
Additional/Dangerous Animals	*					15 days			Staff	Hearing Examiner BOA
Conditional Use Permit	*	*				15 days			Staff	Hearing Examiner

										Examiner BOA	
Site Plan Approval Permit		*1			*2	15 days ¹			Staff	Hearing Examiner BOA	
Short Plat		*				15 days			Staff	Hearing Examiner BOA	
Binding Site Plan		*				15 days			Staff	Hearing Examiner	
Minor Variance					*				Staff	Hearing Examiner BOA	
Alternative Residential Development	*	*				15 days			Staff	Hearing Examiner BOA	
Pre-Plat	*	*	*	*		15 days	Staff	Hearing Examiner	Hearing Examiner		SC
Final Plat					*				CC		SC
Variance	*	*	*			15 days		Hearing Examiner BOA	Hearing Examiner BOA		SC
Historical District Permit					*			HPC	HPC		SC
Shoreline Permits	*	*	*	*		15 days	PC	Hearing Examiner BOA	Hearing Examiner BOA		SC
Comprehensive Plan Amendment	*	*	*	*		15 days	PC	PC	CC		GM HB
Title 17/18 Amendment			*	*		15 days	PC	PC	CC		SC
Change of Pre-Zone	*	*	*	*		15 days	PC	PC	CC		SC

Change of Zone	*	*	*	*		15 days	PC	PC	CC		SC
Planned Development	*	*	*	*		15 days	PC	CC	CC		SC
Development Agreement	*	*	*	*		15 days	PC	PC	CC		SC

¹ If a threshold determination is required

² If categorically exempt

(Ord. 5421 Sec. 1, 2012; Ord. 5418 Sec. 1, 2012; Ord. 5393 Sec. 3, 2011; Ord. 5322 Sec. 17, 2010; Ord. 5014 Sec. 3, 2003; Ord. 3642 Sec. 1, 1996)

4.12.100: Permit Procedures.

- (1) All project permits and project permit applications, except zone changes, plats, street vacations, and other legislative decisions, shall be processed and reviewed in the following manner, upon receipt of a completed application:
 - (a) For an application requiring legislative action or which is illegal, the application shall be denied or processed in accord with subsection (2).
 - (b) For applications which involve more than one permit, the City will prepare a temporary schedule for review by all interested agencies, departments, and the applicant. The schedule will be prepared during the application completion determination in accord with Section 4.12.060.
 - (c) Depending upon the scope of the project, the City will schedule necessary public meetings to coordinate the permit process and gather information following appropriate notification as provided in Section 4.12.090.
 - (d) Unless otherwise required, no open record hearing will be held unless there is a bona fide objection to some portion of the permit or from some determination made during the course of the permit processing. When required, only one open record hearing will be held. The open record hearing will be before the officer or body having jurisdiction over the matter in dispute or over the matter requiring the open record hearing. If the matter disputed or for which an open record hearing is required falls within the jurisdiction of more than one department or agency, a joint hearing will be held if practical.
 - (e) A decision or joint decision if possible, shall be issued and notice given thereof, including the time for appeal and the person or body to whom the appeal must be made. Unless another time is provided, an appeal must be filed within ten days of the decision. The longest appeal period following a joint hearing controls if there are multiple appeal periods.
 - (f) The body or bodies with appellate jurisdiction shall hold a joint closed record appeal. An open record appeal may be held for matters for which no open record hearing has previously been held. The decision of the person or bodies hearing the appeal may be joint or separate. Every effort shall be made in the event of separate decisions to ensure that they are issued simultaneously. Any review of the decision or decisions must be made to the superior court within 21 days.
 - (g) In the event that no appellate body is designated for a matter, the matter shall be heard by the ~~Zoning Board of Adjustment~~ Hearing Examiner.
- (2) If the decision on an application must be made by the Kennewick City Council, the application will normally be denied until legislative approval has been obtained. Except for Comprehensive Plan Amendments which may never be processed other than as part of the annual review, an applicant may request combined processing in accord with subsection (1) of this section. ~~Normally any hearing or appeal by the Council will be conducted by a committee rather than a whole.~~

- (3) The actual costs of any hearing or appeal not otherwise required will be borne by the person requesting the review or objecting to a decision. Security for the costs must be posted prior to the setting or notice of hearing or appeal. The failure to post security is a waiver of any objection.

(Ord. 5421 Sec. 2, 2012; Ord. 5322 Sec. 18, 2010; Ord. 3642 Sec. 1, 1996)

4.12.110: Comprehensive Plan Amendment and Area-Wide Rezone Procedures.

- (1) Initiation. Comprehensive Plan Amendments and area-wide rezones may be initiated by any of the following:
- (a) Property owner(s) or their representatives;
 - (b) Any citizen, agency, neighborhood association, or other party; or
 - (c) City Council or city staff.
- (2) Applications. Applications shall be made on forms provided by the City.
- (3) Application Submittal.
- (a) Applicant Initiated. Comprehensive Plan Amendments and area-wide rezones shall be subject to a fully complete determination pursuant to KMC 4.12.060. The date upon fully complete determination shall be the date of registration with the department.
 - (b) Applicants are encouraged to utilize the City's Pre-Application Meeting process prior to submitting a Comprehensive Plan Amendment application, however, applicants requesting a change to Mixed Use are required to go through the Pre-Application Meeting process.
 - (c) Non-Applicant Initiated. After submittal of a non-applicant-initiated application, the application shall be placed on the docket.
 - (d) All requests to change a Comprehensive Plan land use map designation to the "Mixed Use" designation must be accompanied by a Master Development Plan that includes the following:
 - (i) A narrative of planned improvements including gross square feet of floor area to be occupied by different types of uses, the number of proposed dwelling units by unit type, the nature and extent of off-site improvements. The narrative must also explain how the proposal will meet the spirit and intent of the Mixed Use designation and ultimately the new urbanism concepts of the Urban Mixed Use zoning district;
 - (ii) A conceptual site plan illustrating planned development, including the following:
 - (A) Boundaries, dimensions and acreage of the site;
 - (B) Any critical areas (identify type) within the site or immediately adjacent to the site;
 - (C) Location of lot lines rights-of-way, easements, and tracts within the site;
 - (D) Location and nature of planning improvements to the vehicular and pedestrian transportation network within and abutting the site;
 - (E) Location of planned buildings, structures, parking areas and other improvements within the site;
 - (F) Conceptual landscaping plans for all exterior boundaries, interior streets and common open space areas;
 - (G) A traffic study that examines the impacts on the surrounding street network and identifies mitigation measures addressing identified impacts;
 - (H) A development schedule or phasing plan showing the estimated start date, probable stages of development, and the estimated completion date;
 - (I) Any other relevant information required by the Community Planning Director.
 - (iii) A utilities element that considers all utilities necessary to serve the proposed development shall be provided in the Master Development Plan providing the following information:

- (A) The location and size of all existing city utilities which are developed within the area or lead to the site;
 - (B) Plans for the location and sizing of utilities extensions and/or improvements that will be necessary as the site is developed.
- (iv) Covenants, conditions and restrictions proposed by the applicant to control future development of the Master Development Plan;
- (v) Prior to the formal filing of an application for the Mixed Use designation, the applicant shall hold at least one public meeting to discuss the proposal and address the concerns of the affected area residents and property owners. The Master Development Plan shall reflect the various concerns raised during the public input process.
- (vi) Modification of an Approved Master Development Plan. The Community Planning Director may determine that a modification to a previously approved Master Development Plan is exempt from further review as a new application, provided the following criteria are met:
 - (A) The proposed modification is exempt from SEPA review; and
 - (B) The modification is within the general scope of the purpose and intent of the original approval; and
 - (C) The modification complies with all applicable provisions of the Kennewick Municipal Code; and
 - (D) The modification does not add more than ten percent of the square footage assigned to any single building in the approved Master Development Plan and in no event may the modification exceed the development limitations for the area that is subject to the Master Development Plan approval.
- (4) Docket of Comprehensive Plan Amendments and Area-Wide Rezones. The department shall establish and maintain a docket of all applications.
- (5) Annual Review of Docket.
 - (a) Sixty days prior to May 1 in each calendar year, the City shall notify the public that the amendment process has begun. If May 1 falls on a non-business day for the City, the due date shall be the first business day after May 1. Notice shall be distributed as follow:
 - (i) Notice published in appropriate regional or neighborhood newspaper or trade journal;
 - (ii) Notice posted on all of the City's official public notice boards;
 - (iii) Notice posted on the City's website; and
 - (iv) Notice sent to all agencies, organizations and adjacent jurisdictions with a known interest.
 - (b) All docketed applications shall be reviewed concurrently, on an annual basis and in a manner consistent with RCW 36.70A.130(2). Applications docketed after May 1 of the previous calendar year and before May 1 of the current calendar year shall be included in the annual review. Those docketed after May 1 of the calendar year shall be placed on the docket for review at the following annual review.
 - (c) City Council Review of Docketed Requests. After the May 1 deadline, city staff will present the docketed requests to the Planning Commission (Commission) for review and a recommendation. The Commission's recommendation shall be forwarded to the City Council (Council) as soon as practical for Council review. The Council shall determine which specific docketed requests are processed based on the following criteria:
 - (i) Timing of the requested amendment is appropriate and Council will have sufficient information to make an informed decision;
 - (ii) The City will be able to conduct sufficient analysis, develop policy and related development regulations;
 - (iii) The requested amendment has not been recently rejected by Council;

- (iv) The amendment will further implement the intent of the City's adopted Comprehensive Plan; and
- (v) The amendment is not better addressed through another planning process such as a sub-area plan update.
- (d) Statutorily Mandated Periodic Review. Amendment requests will not be docketed for review the year of, and the year prior to the deadline for completion of the periodic review. The deadline for completion of this review is specified in RCW 36.70A.130.
- (e) Emergency Amendments. The City may review and amend the Comprehensive Plan when the Council determines that an emergency exists or in other circumstances as provided for by RCW 36.70A.130(2)(a).
- (6) Notice of Open Record Hearing. Comprehensive Plan Amendments and area-wide rezones require an open record hearing before the Commission.
 - (a) Contents of Notice. A notice of open record hearing shall include the following:
 - (i) The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision;
 - (ii) A statement of how the proposal would change the affected provision;
 - (iii) A statement of what areas, Comprehensive Plan designations, zones, or locations will be directly affected or changed by the proposal;
 - (iv) The date, time, and location of the open record hearing;
 - (v) A statement of the availability of the official file; and
 - (vi) A statement of the right of any person to submit written comments to the Commission and/or appear at the open record hearing of the Commission to give oral testimony on the proposal.
 - (b) Distribution of Notice. The department shall distribute the notice pursuant to KMC 4.12.090.
- (7) Approval Criteria. The City may approve Comprehensive Plan Amendments and area-wide zone map amendments if it finds that:
 - (a) The proposed amendment bears a substantial relationship to the public health, safety, welfare, and protection of the environment;
 - (b) The proposed amendment is consistent with the requirements of Chapter 36.70A RCW and with the portion of the City's adopted Comprehensive Plan not affected by the amendment;
 - (c) The proposed amendment corrects an obvious mapping error; or
 - (d) The proposed amendment addresses an identified deficiency in the Comprehensive Plan.
 - (e) A rezone shall be treated as an area-wide map amendment when:
 - (i) It is initiated by the City and a significant class of property is similarly affected by the proposed rezone; and
 - (ii) It is either:
 - (A) Based upon an adopted or ongoing comprehensive planning process or undertaken to ensure compliance with or to implement the provisions of the Growth Management Act; or
 - (B) Part of the process that includes amending text for this title where such amendments will have a significant impact on a large area of the City.
- (8) Additional Factors. The City must also consider the following factors prior to approving Comprehensive Plan Amendments:
 - (a) The effect upon the physical environment;
 - (b) The effect on open space and natural features including, but not limited to, topography, streams, rivers, and lakes;

- (c) The compatibility with and impact on adjacent land uses and surrounding neighborhoods;
 - (d) The adequacy of, and impact on community facilities, including utilities, roads, public transportation, parks, recreation, and schools;
 - (e) The quantity and location of land planned for the proposed land use type and density and the demand for such land;
 - (f) The current and projected project density in the area; and
 - (g) The effect, if any upon other aspects of the Comprehensive Plan.
 - (9) Planning Commission Recommendation - Procedure. Following the open record hearing, the Commission shall consider the applications concurrently, and shall prepare and forward a recommendation of proposed action for all applications to the Council. The Commission shall take one of the following actions on each application:
 - (a) If the Commission determines that the proposal should be adopted, it may, by a majority vote, recommend that the Council adopt the proposal. The Commission may make modifications to any proposal prior to recommending the proposal to Council for adoption. If the modification is substantial, the Commission must conduct an open record hearing on the modified proposal;
 - (b) If the Commission determines that the proposal should not be adopted, it may, by a majority vote, recommend that the Council not adopt the proposal; or
 - (c) If the Commission is unable to take either of the actions specified in subsection (9)(a) or (b) of this section, the proposal will be sent to Council with the notation that the Commission makes no recommendation.
 - (10) City Council Action. Within 60 days of receipt of the Commission's findings and recommendations, the Council shall consider the findings and recommendations of the Commission concerning the applications. The Council may hold additional public hearings as necessary to make a decision. The City shall distribute notice of a Council public hearing pursuant to KMC 4.12.090. All annual amendments to the Comprehensive Plan shall be considered concurrently. By a majority vote of its membership, the Council shall take one of the following actions on each application:
 - (a) Approve the application;
 - (b) Deny the application;
 - (c) Modify the application. If the modification is substantial, the Council must either conduct a public hearing on the modified proposal; or
 - (d) Refer the proposal back to the Commission for further consideration.
 - (11) Transmittal to the State of Washington. At least 60 days prior to final action being taken by the Council, the Washington State Department of Commerce (DOC) shall be provided with a copy of the proposed amendments in order to initiate the 60-day comment period. No later than ten days after adoption of the proposal, a copy of the final decision shall be forwarded to DOC.
- (Ord. 5811 Sec. 1, 2019 ; Ord. 5740 Sec. 1, 2017 ; Ord. 5644 Sec. 2, 2016; Ord. 5421 Sec. 2, 2012; Ord. 5338 Sec. 1, 2011)