

CHAPTER 17.10
PERMIT REVIEW PROCESS

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17.10.010 APPLICABILITY. This Chapter shall apply to all project permit applications processed under the Benton County Code, except those applications exempted pursuant to BCC 17.10.040. [Ord. 281 (1996) § 2]

17.10.020 PURPOSE. The purpose of this Chapter is to comply with the requirements of the Revised Code of Washington Chapter

36.70B by providing for the review of project permit applications to achieve the following objectives:

(a) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permit applications; and

(b) Except for the appeal of a Determination of Significance as provided in RCW 43.21C.075, provide for no more than one open record hearing and one closed record appeal on a project permit application.

[Ord. 281 (1996) § 3]

17.10.030 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" means an appeal to the Benton County Board of Commissioners, on the record where no new evidence or information being submitted, of 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. The adoption of or amendments to a comprehensive plan, subarea plan, or

development regulations are not classified as project permit applications.
[Ord. 281 (1996) § 4; Ord. 558 (2014) § 1]

17.10.040 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.

(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;

(2) Adoption of development regulations and amendments;

(3) Area-wide rezones to implement new County policies;

(4) Adoption of a comprehensive plan and any plan amendments;
and

(5) Annexations.

[Ord. 281 (1996) § 5]

[NOTE: This chapter is continued on the following page.]

17.10.050 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.

[NOTE: This section is continued on the following page.]

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	FLOODWAY DEVELOPMENT PERMIT APPEAL	CONDITIONAL USE PERMIT	SHORT PLAT VACATION	PLANNED DEVELOPMENT PERMIT
		CHILD DAY CARE FACILITY, TYPE A - PERMIT	SHORT PLAT	SPECIAL USE PERMIT	SUBDIVISION ALTERATION	PRELIMINARY PLAT
		HOME OCCUPATION PERMIT	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT	SHORELINE CONDITIONAL USE PERMIT	SUBDIVISION VACATION	SITE SPECIFIC ZONE CHANGE
		CRITICAL AREAS AND RESOURCES REVIEW AND DETERMINATION OF CONSISTENCY		SHORELINE VARIANCE PERMIT		
		TEMPORARY DWELLING PERMIT		ZONING CODE VARIANCE		
		MINERAL RESOURCE PROTECTION DESIGNATION		SWIMMING POOL VARIANCE		
		MULTIPLE DETACHED DWELLING PERMIT		FLOODWAY DEVELOPMENT VARIANCE		
		COMMUNICATIONS FACILITIES				
		TEMPORARY OUTDOOR RETAIL SALES PERMIT				
		MINERAL EXTRACTION PERMIT				
		MINOR SETBACK VARIATIONS				

[Ord. 281 (1996) § 6; Ord. 388 (2003) § 1; Ord. 503 (2011) § 1; Ord. 558 (2014) § 2]

17.10.060 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 required	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/Final Decision	No	No	No	No	No	No	Yes, Before Board of County Commissioner
Judicial Appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes

[Ord. 281 (1996) § 7; Ord. 558 (2014) § 3; Ord. 563 (2015) § 1]

17.10.070 COMBINED PROCESSING OF PROJECT PERMIT APPLICATIONS.

(a) If an applicant submits a project permit application that involves two or more of the administrative processes set forth in Table 17-2 above, the applicant may, at the time of application submittal, elect to have the project permit applications processed collectively under the highest numbered process required for any of the project permit applications submitted. If no such election is made at the time of application, each project permit application will be processed individually under each of the procedures identified by the Benton County Code. If the applications are

processed individually, the application with highest category number must be processed prior to the lower numbered application.

(b) Except for an appeal of a Determination of Significance, the combined processing of project permit applications shall include no more than one open record hearing and one closed record appeal.
[Ord. 281 (1996) § 8]

17.10.080 JOINT PUBLIC HEARINGS. (a) At the discretion of the Planning Director, a public hearing on a project permit application may be combined with any hearing that may be held by another local, state, regional, federal or other agency on the project for which a project permit application is sought if:

- (1) The hearing is held within Benton County;
- (2) The other agency is not expressly prohibited by law from holding a joint hearing; and,
- (3) Sufficient notice of the hearing may be given so that each of the agencies can meet their adopted notice requirements as set forth in statute, ordinance, or rule.

(b) A joint hearing shall be held if requested by a project permit applicant as long as such hearing can be held in compliance with BCC 17.10.080(a) and, if deemed necessary by the Planning Director to allow a final decision within the applicable time periods set forth in BCC 17.10.150, the applicant agrees to extend the time period for a final decision.
[Ord. 281 (1996) § 9; Ord. 405 (2004) § 1]

17.10.090 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.

(b) A project permit application shall be declared complete only when it contains all the following materials:

- (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 9.08.020(17)) 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) 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).

(d) 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.

[Ord. 281 (1996) § 10; Ord. 388 (2003) § 2; Ord. 405 (2004) § 2; Ord. 573 (2016) § 1]

17.10.100 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.

[NOTE: This section is continued on the following page.]

- (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 a open record hearing, if one has been scheduled.

(c) The notice shall be published in a newspaper of general circulation in 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;
- (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.

[Ord. 281 (1996) § 11; Ord. 388 (2003) § 3]

17.10.110 ADMINISTRATIVE APPROVAL AND APPEALS. (a) The Building Department Manager may approve, approve with conditions, or deny Type I and Type II project permit applications.

(b) The Planning Director may approve, approve with conditions, or deny Type III and Type IV project permit applications.

(c) Any decision by the Building Department Manager on a Type I project permit application shall be final on the date notice of decision is delivered or mailed. No administrative appeals of such decisions are allowed. Any decision of the Building Department Manager on Type II or the Planning Director on Type III and Type IV project permit applications shall be final on the date delivered or mailed, unless a timely appeal is filed with the Planning Director.

(d) The decision/interpretations of the Building Department Manager on Type II permits must be appealed to the Board of Appeals under Chapter 3.04 of the Benton County Code within fourteen (14) days of the Building Department Manager's decision.

(e) The decision of the Planning Director on Type III and Type IV permits must be appealed to the Benton County Hearings Examiner within fourteen (14) days of the date of the decision; provided, that BCC 17.10.110(e) shall not extend the time period to appeal the adequacy of a Final or Supplemental EIS set forth in BCC 6.35.118.

[Ord. 281 (1996) § 12; Ord. 336 (1998) § 1; Ord. 405 (2004) § 3. Ord. 558 (2014) § 4]

17.10.120 HEARINGS EXAMINER ACTIONS. (a) The Benton County Hearings Examiner shall conduct an open record hearing and approve, approve with conditions, or deny Type V project permit applications, shall hear appeals of decisions on all appeals of Type III and Type IV project permit applications, and shall hear appeals of the adequacy of any Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V project permit application. The appeal of the adequacy of a Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V application must be heard as part of an open record hearing or open record appeal hearing on those applications.

(b) A decision by the Hearings Examiner shall be effective on the date the Hearings Examiner provides a written notice of decision on the project permit application. The notice of decision for project permit applications considered by the Hearings Examiner 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.

[Ord. 281 (1996) § 13; Ord. 405 (2004) § 4; Ord. 558 (2014) § 5]

17.10.130 PLANNING COMMISSION ACTIONS. (a) The Benton County Planning Commission shall conduct an open record hearing on Type VII project permit applications 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. [Ord. 281 (1996) § 14; Ord. 405 (2004) § 5]

17.10.140 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 closed record appeals.

[NOTE: This chapter is continued on the following page.]

(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.
[Ord. 281 (1996) § 15; Ord. 405 (2004) § 6; Ord. 558 (2014) § 6]

17.10.150 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.

(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.

[NOTE: This section is continued on the following page.]

(c) 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) 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) 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.

[Ord. 281 (1996) § 16, Ord. 368 (2001) § 1; Ord. 372 (2001) § 1; Ord. 378 (2001) § 1; Ord. 503 (2011) § 2]

17.10.160 JUDICIAL APPEALS. Judicial appeals of decisions on project permit applications must be made in accordance with state law and only after all administrative appeals on a project permit application have been exhausted.

[Ord. 281 (1996) § 17]

17.10.170 ADMINISTRATIVE INTERPRETATIONS. A decision by the Planning Director as to the meaning, application or intent of any development regulation as it relates to a specific piece of property may be requested by the applicant at any time prior to a final decision on a project permit application to which development regulations may apply. The request shall be on a form provided by the Planning Director and which includes identification of the regulation in question, a description of the property, and a clear statement of the issue or question to be decided.

[Ord. 281 (1996) § 18]

17.10.180 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 281 (1996) § 19]

17.10.190 EFFECTIVE DATE. This chapter shall take effect after passage of this chapter; however, the procedures and time frame for issuance of permits and/or approvals as set forth in this chapter shall apply only to project permit applications filed on or after April 1, 1996.
[Ord. 281 (1996) § 20]

17.10.200 EFFECTIVE DATE. Ordinance 503 shall take effect and be in full force on September 1, 2011.
[Ord. 503 (2011) § 4]