

Ordinance No. 622-2023

**ORDINANCE AMENDING KITSAP COUNTY CODE 18.16 (TIMBER HARVEST) AND
21.04 (PROJECT PERMIT APPLICATION PROCEDURES) RELATING TO
TRANSFER OF JURISDICTION FOR TYPE IV GENERAL FOREST PERMIT
ACTIVITIES**

BE IT ORDAINED:

Section 1: General Findings. The Kitsap County Board of Commissioners (Board) makes the following findings:

1. Kitsap County is subject to the requirements of the Washington State Growth Management Act (GMA), Chapter 36.70A RCW.
2. The GMA, in RCW 36.70A.130(1), mandates that Kitsap County's Comprehensive Plan and development regulations be subject to continuing review and evaluation.
3. RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law.
4. RCW 76.09.240 authorizes and encourages the County to assume jurisdiction from the state Department of Natural Resources (DNR) for a subset of forest practices permits. The Department of Community Development (DCD) has reviewed Kitsap County Code and has identified changes that would be necessary to assume this jurisdiction.
5. Kitsap County Code (KCC) Chapter 21.08 sets forth a process and criteria for making amendments to development regulations. Specifically, KCC 21.08.100 outlines review by the Kitsap County Planning Commission and KCC 21.08.110 outlines review by the Board of County Commissioners. For any amendment, the following shall be considered:
 - a. whether the proposal is supported by the capital facility plan;
 - b. whether the proposal is consistent with the requirements of the GMA, Kitsap Countywide Planning Policies or other applicable laws or provisions of the Comprehensive Plan;
 - c. whether the proposal reflects current local circumstances; and
 - d. whether the proposal bears a substantial relationship to the public's general health, safety, morals, or welfare.
6. RCW 76.09.240 authorizes 'Transfer of Jurisdiction' between DNR and local jurisdictions.

Section 2: General Procedural Findings. The Kitsap County Board of Commissioners (Board) makes the following procedural findings:

1. The Department of Community Development proposed amendments to Kitsap County Code will enable Kitsap County to assume sole regulatory authority via Transfer of Jurisdiction from the Department of Natural Resources (DNR) of Class IV-General Forest Practices as outlined in with RCW 76.09.
2. Draft code was released, and the public comment period began on, December 26, 2018.
3. A State Environmental Policy Act Programmatic Determination of Nonsignificance was issued December 26, 2018, and no comments were received prior to the closing on January 16, 2019.
4. Meetings were held with the Manchester Citizens' Advisory Committee, Kingston Citizens' Advisory Council, Suquamish Citizens' Advisory Committee, Central Kitsap Community Council, and the Kitsap Environmental Coalition during the months of February and March 2019.
5. A work study session with the Board of County Commissioners and the Department of Community Development occurred on March 27, 2019.
6. The public comment period on the proposed amendments to Kitsap County Code was open December 26, 2018 until August 20, 2019. Many written comments were received. Several comments resulted in amendments to the draft code and were included in the May 14, 2019 Staff Report to the Planning Commission.
7. Public outreach regarding the proposed amendments to Kitsap County Code was conducted through a dedicated and up-to-date web page, direct notification to subscribers to various Kitsap County notification lists (GovDelivery and NextDoor), and meetings with various interested parties.
8. On May 14, July 2, and August 20, 2019, the Kitsap County Planning Commission held regularly scheduled and properly noticed work study sessions to review the proposed amendments to Kitsap County Code.
9. On August 20, 2019, following effective and timely legal notice, the Kitsap County Planning Commission held a public hearing to accept testimony on the proposed amendments to Kitsap County Code, and recommended approval through a Commission vote of 8 in favor and 0 opposed.
10. Following the Planning Commission recommendation of August 20, 2019, DCD experienced a substantial staff reduction and effects of Covid pandemic that paused the adoption of amendments to KCC 18.16 and 21.04.

11. On August 16, 2022, the Planning Commission held regularly scheduled and properly noticed work study session to review the amendments. Given the amount of time that had passed, The Department of Community Development provided a summary of changes that were previously recommended. No changes were made to the Planning Commission's 2019 recommendation.
12. On November 28, 2022, the Department of Community Development provided email notification to stakeholders and interested parties that they intended to restart the Timber Harvest project and move forward to Board of County Commissioners review. No comments were received as a result of that communication.
13. On January 18, 2023, Kitsap County Board of County Commissioners held a regularly scheduled and properly noticed work study session to review the proposed amendments to Kitsap County Code.
14. On February 15, 2023, Kitsap County issued a Notice of Public Hearing for the Board of County Commissioners in the legal publication of record regarding the content of the proposed amendments.
15. On February 27, 2023, following timely and effective public notification, the Board held a public hearing to accept comments from interested parties.
16. On February 27, 2023, the written comment period closed with Board.

Section 3: General Substantive Findings. The Kitsap County Board of Commissioners (Board) makes the following substantive findings:

1. The proposed code amendments were developed with multiple opportunities for public participation and comment as required by GMA and the State Environmental Policy Act (SEPA), chapter 43.21C RCW.
2. The proposed code amendments were developed according to, and are compliant with, the requirements of GMA, chapter 36.70A RCW, the Countywide Planning Policies, the Kitsap County Comprehensive Plan, Kitsap County Code, and other applicable laws and policies.
3. The proposed code amendments are consistent with the vision of the Kitsap County Comprehensive Plan: "County Government that is accountable and accessible; encourages citizen participation; seeks to operate efficiently as possible; and works with citizens, governmental entities and tribal governments to meet collective needs fairly while respecting individual and property rights."
4. The proposed code amendments promote the public interest and welfare of the citizens of Kitsap County.

Section 4: Kitsap County Code Section 18.16.020 Purpose, last amended by Ordinance 150-A (2000), is amended as follows:

18.16.020 Purpose.

The purpose of this chapter is to identify and mitigate, minimize or eliminate potential impacts from timber harvest and associated forest accesses (which includes but is not limited to improved and unimproved rights-of-ways, access easements or driveways that are on or are used to access land to be cleared) on drainage courses and critical areas. Orderly development and protection of critical areas directly concern the public's health, safety and welfare. Pursuant to RCW 76.09.240 and WAC 222-20-040, Kitsap County has limited authority to regulate Class IV forest practices and this chapter is an exercise of that authority. These regulations establish procedures for review of conversion forest practices application(s), conversion option harvest plan and lifting of permit moratoria.

This chapter implements WAC 222-20-040(3) relating to conversion forest practices and is not intended as a separate Forest Practice permit system. This chapter does not affect Class I, II, ~~or III~~, or Class IV-Special forest practices as defined in the Forest Practices Act, Chapter 76.09 RCW and chapter 222-16 WAC. Conditions of issuance of timber harvest permit pursuant to this chapter are intended to be conditions on the forest practices application to the Washington State Department of Natural Resources when that department issues a forest practices application pursuant to WAC 222-020-040. Issuance of a timber harvest permit does not grant authority to begin any forest practice as defined in Chapter 76.09 RCW, as such authority is statutorily vested in the Department of Natural Resources.

This chapter implements WAC [REDACTED] relating to conversion option harvest plans and RCW 76.09.060 relating to the six-year permit moratorium.

1. For Class II, III, and IV-special forest practices, if a landowner wishes to maintain the option to convert forest land to a use other than commercial timber operations, the landowner may request that the County approve a conversion option harvest plan.
2. If a local governmental entity approves a plan, the landowner must attach it to the forest practices application or notification.
3. The plan will be a condition of the approved application or notification.
4. Violation of the plan shall result in the development prohibitions or the conditions described in RCW 76.09.460.
5. Reforestation requirements will not be waived regardless of the existence of a conversion option harvest plan.

This chapter will be ~~supplemented~~ augmented with a memorandum of agreement between the Department of Natural Resources and Kitsap County.

Section 5: Kitsap County Code Section 18.16.030 Definitions, last amended by Ordinance 150A (2000), is amended as follows:

18.16.030 Definitions.

For the purpose of this chapter, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

1. "Applicant" means the person, party, firm, corporation or legal entity that proposes a timber harvest of property in Kitsap County or agent thereof.
2. "Board" means the legislative authority of Kitsap County.
3. "Buffer" means a strip of land that provides visual screening, and/or protection of critical areas by preserving existing natural vegetation to the greatest extent possible.
4. "Comprehensive Plan" means the current Comprehensive Plan of Kitsap County approved by the board pursuant to state law.
5. Conversion. "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use that is incompatible with timber growing.
6. "Conversion option harvest plan" means a plan for landowners who want to harvest their land but wish to maintain the option for conversion pursuant to WAC [REDACTED].
7. "County" means Kitsap County.
8. Critical Areas. Pursuant to the Critical Areas Ordinance (Title 19 of this code), and as hereafter amended, "critical areas" include the following areas and ecosystems:
 - (a) Wetlands;
 - (b) Critical Aquifer Recharge Areas
 - (c) Fish and wildlife habitat conservation areas;
 - (d) Frequently flooded areas; and
 - (e) Geologically hazardous areas.
9. "Critical areas buffer" means an area of protection around a critical area.
10. Danger Trees. Pursuant to the Critical Areas Ordinance (Title 19 of this code), and as hereafter amended, "danger trees" means any tree of any height, dead or alive, that presents a hazard to the public because of rot, root system or limb

damage, lean or any other observable condition created by natural process or man-made activity consistent with WAC 296-54-505. ~~529(290)~~.

11. "Department" means the Kitsap County ~~D~~epartment of ~~C~~ommunity ~~D~~evelopment or DCD.
12. "Director" means the director of the county's ~~D~~epartment of ~~C~~ommunity ~~D~~evelopment or an assigned designee.
13. "Engineer" means the county's engineer.
14. Essential Public Facilities. An "essential public facility" ("EPF") may be any facility which provides a public service as its primary mission; the facility may be owned or operated by a unit of local or state government or by a privately-owned entity. EPF's include, but are not limited to, the following examples: state education facilities; publicly supported education facilities; state or regional transportation facilities; prisons, jails and other correctional facilities; solid waste handling facilities; airports; in-patient facilities (including substance abuse and mental health institutions and group homes); and communications towers and antennas used exclusively for governmental purposes.
15. "Forest-land," ~~as defined in RCW 76.09.020~~, shall mean all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forestland owners, the term "forestland" excludes:
 - (a) Residential home sites, which may include up to five acres; and
 - (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.
16. "Forest practice" means any activity conducted on or directly pertaining to forestland and relating to growing, harvesting or processing timber, including but not limited to:
 - (a) Road and trail construction and maintenance;
 - (b) Harvesting, final and intermediate;
 - (c) Precommercial thinning;
 - (d) Reforestation;
 - (e) Fertilization;
 - (f) Prevention and suppression of diseases and insects;

- (g) Salvage of trees; and
- (h) Brush control.

17. "Forest practices application" means the application required to be submitted to the Washington State Department of Natural Resources (DNR) for the harvest of forest products.

18. "Hearing examiner" means a person appointed to hear or review certain land use applications and appeals pursuant to Title 21 of this code, the Land Use and Development Procedures Ordinance.

19. "Non-forestry use" means an active use of land that is incompatible with timber growing.

20. "Owner" means any person or persons having a legal or equitable property right or interest, whether it be legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, option or optionee, and beneficiary or grantor of a trust and deed of trust.

21. "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

22. "Primary Development" means the principal permit associated with a development including~~Primary development shall include:~~

- (a) All short plats, large lots, long plats;
- (b) Site plan review;
- (c) Planned unit developments or performance-based development;
- (d) Shoreline development permits;
- (e) Unclassified use permits; and
- (f) Conditional use permits.

23. "Shoreline Management Program" means ~~RCW 90.58.030~~ chapter 90.58 RCW, the Shoreline Management Act, and the Kitsap County Shoreline Management Master Program.

24. "Timber harvest" means the activity pertaining to the cutting and/or removal of forest product, but shall not include fertilization, prevention and suppression of diseases and insects and brush control.

25. "Timber harvest permit" ~~shall apply to~~ means a permit issued by the department for those harvest activities which result in greater than 5000 board feet of merchantable timber. ~~Class IV general forest practices on land which is proposed~~

~~for conversion to a use other than commercial timber production or land which has been platted after January 1, 1960, as set forth in RCW 76.90.050.~~

26. "Vegetation" means all the plants or plant life on a specific parcel.

Section 6: Kitsap County Code Section 18.16.050 Exclusions, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.050 Exclusions

This chapter shall not apply to timber harvest ~~operations~~ activities, other than Class IV general forest practices on land proposed for conversion to a use other than commercial timber production ~~or land, which has been platted after January 1, 1960, as set forth in RCW 76.90.050.~~

Section 7: Kitsap County Code Section 18.16.060 Permit Required, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.060 Permit Required

A timber harvest permit shall be required for applications involving Class IV general forest practices on land proposed for conversion to a use other than commercial timber production ~~or land, which has been platted after January 1, 1960, as set forth in RCW 76.90.050 and WAC 222-20-010.~~

Section 8: Kitsap County Code Section 18.16.070 Standards, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.070 Standards.

The following standards shall apply to land being converted to a non-forestry use, except where these standards conflict with the provisions of an approved primary development, in which case the primary development requirements will take precedence:

- (a) Compliance with any other applicable Kitsap County Ordinances.
- (b) In the event that thinning or topping in a buffer area is necessary the director may, in consultation with the landowner and state or Tribal governments, require replanting of the buffer area.
- (c) Required erosion control measures shall be implemented and maintained to the current Kitsap County silt and erosion control policies.
- (d) When a project is phased, the timber harvest may also be phased.
- (e) It is the applicant's responsibility to arrange for on-site inspection of the project as may be outlined in the conditions of the timber harvest permit.

Section 9: Kitsap County Code Section 18.16.080 Application for timber harvest permit, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.080 Application for timber harvest permit.

~~(a) All timber harvest applications shall be made to the Kitsap County department of community development prior to submittal of the forest practices application to the Department of Natural Resources.~~

~~(b) All timber harvest applications shall declare the type, scale and schedule of future development plans. If primary development approval is required, a timber harvest permit will not be granted until the primary development application is approved by the county~~

(a) Applications for a Kitsap County Conversion Option Harvest Plan (COHP) timber harvest permit shall be made to DCD. Review of the application and a field visit will be conducted by DCD staff, staff from affected Indian Tribes, and representatives from state agencies including, but not limited to, DNR and Department of Fish and Wildlife. After completion of any corrective actions on the application through review and approval procedures, DCD shall provide an approval letter to DNR prior to submittal of an application to DNR.

(b) Applications for a timber harvest conversion permit shall be submitted to DCD and processed according to Kitsap County code. When DNR receives an application for a conversion permit, they shall send the applicant to DCD for permit assistance and processing.

(c) Danger tree harvest applications are processed under a Kitsap County site evaluation permit. The permit specifies a building safety tree removal within a "tree-length and a half" around a permanent structure (or a planned single-family residence). Removal of trees within critical areas or associated buffers must demonstrate compliance with Title 19 Critical Areas and Title 22 Shoreline Master Program, or otherwise follow the guidelines for tree removal within Titles 19 and 22. Except for imminent risk to habitable structures, an arborist risk assessment letter or report shall be required for removal of danger trees within a critical area or its associated buffer. Except for imminent risk to habitable structures, removal of danger trees on moderate slopes or greater within the danger tree perimeter require submittal and concurrence with a geologist or geotechnical engineer per KCC 19.400.415 protocols.

(d) All timber harvest applications shall declare the type, scale and schedule of known future development plans. If primary development approval is required, a timber harvest permit will not be granted until the primary development permit is issued by the department.

(e) Areas of forest practice permit applications that may contain cultural resources to affected Indian tribes shall be subject to the notification and review provisions of WAC 222-20-120.

Section 10: Kitsap County Code Section 18.16.090 Application for conversion option harvest plan, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.090 Application for conversion option harvest plan.

- (a) The purpose of the conversion option harvest plan is to allow limited selective logging prior to final primary development approval. Each conversion option harvest plan shall be reviewed by the director on an individual basis.
- (b) A conversion option harvest plan shall be submitted to the Kitsap County department of community development pursuant to WAC [REDACTED] prior to application for primary development and/or timber harvest activities on the project site.
- (c) Application for Approval of a conversion option plan shall be reduced to a written contract between Kitsap County and the applicant, that shall be recorded with the Kitsap County auditor initiated by a property owner or his authorized agent by filing an application with DCD. Applications shall be consistent with the review authority table found in Section 21.04.100 and with WAC 222-20-040. Applications shall initiate site visits with DCD staff, staff from affected Indian Tribes, and representatives from state agencies including, but not limited to, DNR, and Department of Fish and Wildlife. Site visits will assist in understanding input on issues including, but not limited to, surrounding riparian functions, fish and wildlife, unstable slopes, water typing, cultural resource protections, and mitigation.
- (d) The conversion option harvest plan shall expire upon expiration of the forest practices application/notification.

Section 11: Kitsap County Code Section 18.16.100 Contents of an application, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.100 Contents of an application.

A timber harvest application or conversion option harvest plan shall contain information required by the submittal requirements checklist established by the DCD as set forth in Section 21.04.160 and any submittal requirements established by DCD permit checklists the following:

- a) ~~Name, address and telephone number of the owner of record of the real property;~~
- (b) ~~A legal description of the real property to be divided;~~
- (c) ~~Two copies of the map of proposed timber harvest area as described in Section 18.16.110;~~
- (d) ~~The signature of the owner of record of the real property;~~
- (e) ~~Assessor's account number;~~

~~(f) A statement declaring the type and scale and schedule of future development plans;~~

~~(g) An environmental checklist; and~~

~~(h) A completed Department of Natural Resources forest practices application.~~

~~18.16.110 Map of proposed timber harvest.~~

~~The map of the proposed timber harvest or conversion option harvest plan shall contain the following:~~

~~(a) Map drawn to scale no less than one inch to two hundred feet, which scale shall be shown on the drawing;~~

~~(b) The map shall show areas to be cut, buffers, drainage ways and culverts;~~

~~(c) A temporary silt and erosion control plan and any other proposed mitigation efforts;~~

~~(d) North point;~~

~~(e) The approximate location of structures;~~

~~(f) The location of all existing and proposed streets, right of way, easements, skid roads, haul roads and landings within the proposal and, where possible, labeling each of the foregoing by width; and~~

~~(g) The approximate location of any lakes, ponds, wetlands, streams, creeks, shorelines, marshes, and slopes approximately thirty percent or greater.~~

Section 12: Kitsap County Code Section 18.16.120 Application Fee, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.120 Application fee.

All applications for permits or actions by the county shall be accompanied by a filing fee in an amount established by county resolution, per section 21.10.010.

An application fee per the Kitsap County Development Permit Fee Schedule (Section 21.06.100) shall be submitted to the department of community development.

Section 13: Kitsap County Code Section 18.16.130 Review by director, last amended by Ordinance 150-A (2000), is repealed.

Section 14: Kitsap County Code Section 18.16.140, previously repealed by Section 13 of Ord. 290 (2002). Is replaced by new section 18.16.140 Tax Reporting, as follows:

18.16.140 Tax Reporting.

All County timber harvest permit forms, including danger tree permit applications, shall include forest excise tax reporting requirements and reference requirements for the

landowner or timber owner to contact the Washington State Department of Revenue to obtain a Forest Tax Reporting Account number at 1-800-548-8829. (Repealed)*

* ~~Editor's Note: Former Section 18.16.140, "Review by engineer," was repealed by Section 13 of Ord. 290 (2002). This section was originally derived from Ord. 150-A (2000) § 14.~~

Section 15: Kitsap County Code Section 18.16.170 Appeal, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.160 Appeal.

Any person wishing to appeal the granting, denial or conditions of approved timber harvest permit or conversion option harvest plan shall follow the appeal procedure as set forth in the Chapter 21.04 Project Permit Application Procedures Land Use and Development and Procedures Ordinance (Title 21 of this code) and subsequent amendments.

Section 16: Kitsap County Code Section 18.16.170 Amendment to approved timber harvest permit, last amended by Ordinance 291 (2002) is amended as follows:

18.16.170 Amendment to approved timber harvest permit.

A timber harvest permit, which has been approved, may be amended by the applicant. The contents and procedure for an amended application shall be the same as Sections 18.16.080, 18.16.090 and 18.16.100. The application fee shall be per the Kitsap County Development Permit Fee Schedule (Section 21.10.010-06.100). Amended applications shall be forwarded to DNR the Department of Natural Resources on approval, if applicable.

Section 17: Kitsap County Code Section 18.16.175 Forestry in rural wooded incentive program, last amended by Ordinance 368 (2006) is repealed.

Section 18: Kitsap County Code Section 18.16.180 Lifting of forest practices six-year development moratorium, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.180 Lifting of forest practices six-year development moratorium.

The purpose of this section is to provide criteria and a process for lifting a forest practices six-year development moratorium under certain circumstances. It establishes a public notification process, with criteria and standards by which ~~the board of county commissioners may lift~~ a six-year development moratorium may be lifted.

A. Process for Lifting a Forest Practices Six-Year Development Moratorium. Any person who intends to convert property which has been logged pursuant to a Class II, III

or IV special non-conversion forest practices application or notification, or without any such application or notification, from forestry use to another use, shall notify the director in writing of such an intent.

Upon receipt of a written intention for conversion of a non-conversion forest practices application/notification, the director shall insure that the property owner causes notice of intention thereof to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the property is located. In addition, the director shall insure that the property owner provides additional notice of such intention by the following methods:

- (1) Mailing to the latest recorded real property owners as shown by the county assessor within ~~eight~~^{at least four} hundred feet of the boundary of the property upon which the conversion is proposed. If the applicant owns property adjoining or across a right-of-way or easement from the property that is the subject of the request, notice shall be mailed to owners of property within an ~~eight~~^{four} hundred-foot radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the request.
- (2) Posting in a conspicuous manner on the property upon which the conversion is requested.

An affidavit that the notice has been properly published, the property posted, and notice letters deposited in the U.S. Mail pursuant to this section shall be affixed to the request. Such notices shall include a statement that within fifteen days of the final publication, any interested person may submit his or her written views upon the conversion request to the director or to notify the director of his or her desire to receive a copy of the action taken upon the request. All persons who notify the director of their desire to receive a copy of the final order shall be notified in a timely manner of the action taken upon request. Notice of a hearing shall include a statement that any person may submit oral or written comments on an application at such hearing. All notices of conversion request shall be submitted on the county-approved notice application form and be approved by the director prior to publication.

The director shall review the request for conversion, any comments received, applicable code, including standards of Sections 18.16.130, 18.16.140 and subsection (B) of this section, and inspect the property prior to setting a public hearing before the Hearing Examiner board of county commissioners. ~~At least seven days before the date of the first hearing on the request for conversion the director shall issue a written staff report and recommendation. The director shall make a copy of the staff report available to the public for review and inspection, mail a copy of the consolidated report and recommendation to the review authority, and mail or provide copies to other parties who request it. This will be reviewed pursuant to a Type III process as described in KCC 21.04~~

B. Criteria. The ~~Hearing Examiner~~~~board of county commissioners~~ may lift a six-year development moratorium only upon finding that each of the following criteria has been met:

- (1) Lifting the moratorium will not be detrimental to the public health, safety, and general welfare.
- (2) Lifting the moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.
- (3) Lifting the moratorium will be neutral or more beneficial as to environmental effects.
- (4) Lifting the moratorium is consistent with the goals, objectives and policies of the Kitsap County Comprehensive Plan.
- (5) One of the following has occurred:
 - (a) The site has been designated for an essential public facility as defined in this chapter or has been designated as a public facility on the Comprehensive Plan Map; or
 - (b) Is a capital facility of the state or its political subdivision necessary for the protection of a natural resource; or
 - (c) The landowner has provided evidence that a theft of timber or a fraudulent forest practice application has been submitted without his or her knowledge or consent.
- (6) The logging activities conducted on the site complied with requirements of the Forest Practices Act, including but not limited to replanting requirements. When applicable, a notification shall be provided by DNR that all outstanding final orders or decisions on any forest practice application have been resolved.
- (7) Lifting of the moratorium would meet County review requirements of this chapter and Chapter 21.04 Sections 18.16.130 and 18.16.140 or could be mitigated to do so.
- (8) There has been no intentional circumvention of the requirements of this chapter (timber harvest) rendering the property ineligible for lifting a moratorium for its entire term.

C. Performance Requirements. The lifting of the six-year moratorium shall be conditioned upon compliance with the following requirements:

- (1) All corrective actions necessary to bring the site into compliance with ~~Sections 18.16.130 and 18.16.140~~Kitsap County Code must be completed or adequately

bonded prior to final land use, grading or site development, and/or building permit approval.

(2) Where forest practice activity has encroached upon or damaged, removed or altered buffers, critical areas or critical areas buffers, ~~the board shall require~~ mitigation, enhancement, or increased buffers as necessary for compliance with current Kitsap County land use ordinances shall be required.

(3) Where applicable, the State Environmental Policy Act (SEPA) determination and any associated conditions.

(4) Provision of any performance bonds for mitigation measures not completed.

(45) Lifting of the development moratorium is valid only for the specific land use proposed and that land use is subject to the applicable implementing regulations of the Comprehensive Plan.

Section 19: Kitsap County Code Section 18.16.190 Enforcement, last amended by Ordinance 150-A (2000) is amended as follows:

18.16.190 Enforcement.

(a) The director is authorized to enforce this chapter and to authorize county employees to represent the department to investigate suspected violations of this chapter, issue orders to correct violations and issue notices of infractions.

(b) Kitsap County Civil Enforcement Ordinance (Chapter 2.116 of this code), and as hereafter amended, applies to violations of this chapter. Any person, firm or corporation who fails to obtain a timber harvest permit when required to do so under this ordinance, or who violates any condition of a timber harvest permit shall have committed a Class I civil infraction. Each and every day or portion thereof during which harvesting that occurs without a timber harvest permit shall constitute a separate infraction. Each and every day or portion thereof during which a violation of a condition of a timber harvest permit is committed, continued or permitted, shall constitute a separate violation.

(c) Code Compliance and Project Permit Application Review Suspension. If an open and active code compliance case exists on a parcel, and a proposed permit application is submitted for that parcel which may, in the department's interpretation, impact or be impacted by the code compliance case, the permit application may be suspended until the resolution of the code compliance case.

Section 20: Kitsap County Code Section 21.04.210 Notice of Application, last amended by Ordinance 539 (2016) is amended as follows:

21.04.210 Notice of application.

A. Timing. Within fourteen days of issuing a letter of completeness under Section 21.04.200, the county shall issue a notice of application for Type II, III and IV applications that are not exempt under subsection (D) of this section. In cases where an

open public record hearing will be held, the notice of application and SEPA threshold determination shall be issued at least fifteen days prior to the date of the hearing.

B. Content. The notice shall be dated and shall include, but not be limited to, the following information:

1. The case file number(s), the date of application(s), the date the application(s) was deemed complete;
2. A description of the proposal with a list of any project permit requests included with the application(s) and, if applicable, a list of any further studies required by the review authority;
3. A notice of the proposed date, time, place, and type of hearing, if applicable;
4. Identification of other necessary permits not included in the application, to the extent known by department staff;
5. Identification of existing environmental documents evaluating the proposal and the location where the documents can be reviewed;
6. A statement describing the public's rights to provide comment and to request a copy of the decision, the deadline for submitting written comments, and notice of public hearing participation and appeal rights regarding the application;
7. If a SEPA threshold determination has been made, a statement of the preliminary determination of what development regulations will be used for project mitigation and consistency under RCW 36.70B.040 and that the SEPA review document will be available for inspection at no cost at least fifteen days before a Type II administrative decision or Type III public hearing;
8. A SEPA threshold determination and/or a scoping notice may be issued with a notice of application; provided, that a final threshold determination of nonsignificance or mitigated determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application when the optional DNS process (WAC 197-11-355 and Section 18.04.120) is utilized;
9. A statement that a consolidated staff report will be available for inspection at no cost at least three business days before a Type II administrative decision and seven days before a Type III public hearing;
10. The name of the applicant or applicant's representative and the name and address of the contact person for the applicant, if any;
11. A description of the site which is reasonably sufficient to inform the reader of its location, current zoning designation and the nearest road intersections;

12. The date, place and times where information about the application may be examined and the name and telephone number of the department representative to contact about the application;

13. The designation of the review authority, and a statement that the hearing will be conducted in accordance with adopted rules of procedure; and

14. Any additional information determined appropriate by the review authority.

C. Distribution.

1. Mailing. The director shall mail a copy of notices of application and hearings, or a summary postcard as provided in this section, to:

a. The applicant and the applicant's representative, except that electronic mailing may be used.

b. For Type III and IV applications only, any citizen advisory committee/council known to the review authority and in whose area the property in question is situated.

c. Owners of property within a radius of eight hundred feet of the property which is the subject of the application. The department shall use the records of the Kitsap County assessor's office for determining the address of all of the owner(s) of record within the appropriate radius.

i. The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A certificate or affidavit of mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate.

ii. If the applicant also owns property adjoining or across a right-of-way or easement from the property that is the subject of the application, notice shall be mailed to owners of property within the radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the application.

d. County departments, agencies with jurisdiction, including tribal governments, and the Department of the Navy of the United States.

e. Shoreline property owners, for in-water project permit applications. When the department determines that a proposed in-water project may have impacts on areas within one mile of the proposed project site, the department may expand the notification radius in its sole discretion. In addition, the department shall use a mailing area extending eight hundred feet in both directions from the project site along the ordinary high water mark of the project site. The department shall use the records of the Kitsap County assessor's office for

determining the address of all of the owner(s) of record within the appropriate radius.

f. Other persons who request such notice in writing.

2. **Publication.** For Type III review, the department shall publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the proposed hearing, the nature and location of the proposal and instructions for obtaining further information.

3. **Posting.** For Type III review, at least fifteen days before the hearing, the department or the applicant shall place a notice sign(s) on the property which can be clearly seen and readily readable from each right-of-way providing primary vehicular access to the subject property. Signs shall provide contact information. Corner lots shall use one two-sided sign placed diagonally to the corner to be visible from both streets. Signs shall be located to not interfere with vehicular line of sight distance. The applicant shall remove and properly dispose of the notices within seven days after the hearing.

a. The sign shall state the date, time, and place of the hearing; the nature and location of the proposal; and instructions for obtaining further information.

b. At least two days before the hearing, the person responsible for posting the sign shall execute and submit an affidavit to the review authority certifying where and when the sign notices were posted.

4. For notices that are required to be mailed pursuant to this chapter, the department may substitute a postcard notification that includes a short summary of information and provides the recipient with instructions regarding obtaining complete notice either electronically or in person.

D. Forest Practices Applications. All applications for forest practice permits shall be subject to noticing requirements of this section. Further, forest practice permit applications for areas that may contain cultural resources to affected Indian tribes shall be subject to the notification and review provisions of WAC 222-20-120.

ED. Exemptions. A notice of application may be issued, but 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 pre-decision hearing is required or an open record appeal hearing is allowed on the project permit decision. A notice of application is also not required for Type II site development activity permits where notice was already given under a previously issued land use or commercial permit.

FE. Continuations. If for any reason a commenced hearing on a pending project permit application action cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required.

Section 21: Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

Section 22: Scrivener's Error.

Should any amendment to Kitsap County Code that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 39: Effective Date.

This Ordinance shall take effect immediately following adoption.

DATED or ADOPTED this 27th day of February, 2023.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON



Charlotte Garrido

CHARLOTTE GARRIDO, Chair

Robert Gelder

ROBERT GELDER, Commissioner

Katherine T. Walters

KATHERINE T. WALTERS, Commissioner

ATTEST:

Dana Daniels

Dana Daniels, Clerk of the Board

APPROVED AS TO FORM:

Lisa Nickel

Lisa Nickel, Deputy Prosecuting Attorney