Chapter 24.05

ADMINISTRATIVE PROCEDURES

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24.05.005 General purposes.
It is the policy of Thurston County to accomplish the following:

A. To review developments which lie within a critical area, which includes its buffer;
B. To minimize the delays associated with multiple development reviews; and
C. To assist property owners in developing their property consistent with this title by promoting the use of innovative land use techniques to protect critical areas.
24.05.010  Application types and classification.
Applications for review of permit types or actions listed in Table 24.05-1 TCC shall be subject to a Type I, Type II, Type III, or Type IV review process. The application types are classified as follows:

A. A Type I process involves 1) an application that is subject to clear, objective and nondiscretionary standards or standards that require the exercise of professional judgement about technical issues, and 2) that is exempt from State Environmental Policy Act (SEPA) review.

B. A Type II process involves an application that is subject to objective and subjective standards which require the exercise of limited discretion about nontechnical issues and about which there may be limited public interest.

C. A Type III process involves an application that is subject to standards which require the exercise of substantial discretion and about which there may be broad public interest.

D. A Type IV process involves the adoption or amendment of critical areas policies or regulations. It also includes critical areas analysis that would be required for a site-specific comprehensive plan or zoning amendment.

24.05.020  Application review procedures and public notice requirements.
A. Applications for permits or approvals listed in Table 24.05-1 TCC shall be subject to the review procedures and public notice requirements specified below:

1. Type I review procedure – Ministerial Decision. The review procedure for a Type I review process shall follow the procedure specified in TCC 20.60.020(1), except that critical areas map amendments shall follow the procedure and notice requirements in TCC 24.91.030.

2. Type II review procedure – Administrative Decision. The review procedure and public notice requirements for a Type II review process shall follow the procedure and public notice requirements specified in TCC 20.60.020(2).

3. Type III review procedure – Quasi-Judicial Decision. The review procedure and public notice requirements for a Type III review process shall follow the procedure and public notice requirements specified in TCC 20.60.020(3).

4. Type IV review procedure – Legislative Decision. The review procedure and public notice requirements for a Type IV review process shall follow the procedure and public notice requirements specified in chapter 24.91 TCC.

B. In addition to the requirements of TCC 24.05.020 (A) above, the director may reject all or part of an application and supporting information, including any required special report, based upon:
1. Any factual errors or omissions; or
2. Inconsistencies between the submitted materials and observable data, and/or accepted scientific or technical criteria; or
3. Faulty analysis, faulty analytical procedures, or other findings made through the review of the proposal that support rejection.

24.05.022 Third party review.

A. The purposes of third party review are to protect critical areas, maintain public safety, protect public health and property, and to ensure that the nature and extent of critical areas and any associated buffers are correctly determined.

B. The county shall attempt to resolve any issues with the original author(s) or applicant before requiring third party review.

C. The approval authority may, at the applicant’s expense, require a third party review of any submission if there is reason to determine that:
   1. The submission contains factual errors, omissions, or incomplete analysis; or
   2. Inconsistencies exist between the submitted materials and observable data, and/or accepted scientific or technical criteria; or
   3. The submission contains faulty analysis, faulty analytical procedures, substantive differences of interpretation of submitted data or analysis, or other findings made through the review of the proposal that support commissioning third party review; or
   4. Specialized expertise is required for adequate review of a proposal.

D. The approval authority shall select the third party reviewer.

24.05.025 Critical area approval authority and review processes.

A. The approval authority for the various types of permits and actions involved in the administration of this title are shown in Table 24.05-1 TCC.

B. In making a decision under Table 24.05-1 TCC, the approval authority may approve, approve with conditions, or deny proposed uses and activities consistent with the applicable provisions of this title. The county shall issue a decision for each application involving a critical area, associated buffer, or riparian area in accordance with the applicable review process in TCC 24.05.020 and the sections of this title applicable to each decision.

C. Decisions by the hearing examiner shall conform to chapter 2.06 TCC.
24.05.027  Critical area determination process.
The sequence of review related to critical areas and associated buffers generally is as follows:

A. County site visit. When a critical area screening tool or other source of information indicate the possible presence of a critical area or associated buffer on a subject property, the director shall visit the site to verify what critical areas or associated buffers may exist on site. Depending on the type of critical area being evaluated, the size of the parcel, the nature of surrounding development, and the level of degradation or development already existing on site, the director may be able to determine that no jurisdictional critical area exists on the subject property, or that the proposed activity will not impact the functions of any critical areas or associated buffers on site.

B. Professional survey. If the director determines that a critical area may exist, or are unsure of the nature or condition of a critical area on site, the applicant may be required by the county to hire a professional to determine the nature and extent of critical areas and associated buffers on the property. Critical area buffer requirements are specified in each individual critical area chapter of this title. Specific requirements for special reports, and criteria for determining who is qualified to prepare them, are located in chapter 24.35 TCC.

C. Critical area report. The director, upon review of a critical area delineation or survey, may require the applicant to submit a critical area report that outlines what impacts will occur and how any impacts will be mitigated. The critical area report must demonstrate that impacts are unavoidable, pursuant to TCC 24.01.037 and 24.35.015. Critical area reports that pertain to important habitats and species may also be referred to as habitat management plans.

24.05.030  Coordination with other application reviews.
A proposed project action involving a permit under this title shall be processed in a consolidated manner, as specified below:

A. Decisions on and review of critical area review permits under chapter 24.40 TCC associated with other related development applications shall occur at the same time as the State Environmental Policy Act review and determination required under chapter 17.09 TCC. However, the decision on the critical area review permit is a separate decision. If no State Environmental Policy Act determination is required, then:

1. The decision shall be issued such that the appeal period shall expire a minimum of fifteen (15) calendar days prior to a public hearing; or

2. Where no public hearing is required, the decision shall be issued a minimum of fifteen (15) calendar days prior to a decision on any associated development application.
B. Decisions on and review of reasonable use exceptions under chapter 24.45 TCC associated with other related development applications that require a public hearing before the hearing examiner shall occur concurrent with the related development applications; unless the applicant chooses to initiate the reasonable use exception first.

C. Decisions on reasonable use exceptions under chapter 24.45 TCC associated with other related development applications that do not require a public hearing before the hearing examiner shall occur prior to a decision on the development applications.

Table 24.05-1 Critical Area Review Authority and Review Processes

<table>
<thead>
<tr>
<th>PERMIT/REVIEW</th>
<th>APPROVAL AUTHORITY</th>
<th>REVIEW PROCESS TYPE</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Staff/Director</td>
<td>Hearing Examiner (HE)</td>
</tr>
<tr>
<td>Administrative Action</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Emergency Authorization (chapter 24.90)</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Critical Area Determination</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Type I Critical Area Review Permit (chapter 24.40) (Type I Application Review Process)*</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Type II Critical Area Review Permit (chapter 24.40) (All Other Application Review Processes)*</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Critical Area Map Amendment**</td>
<td>D*</td>
<td>A*</td>
</tr>
<tr>
<td>Critical Area Ordinance Amendment</td>
<td>R</td>
<td>R</td>
</tr>
<tr>
<td>Code Interpretation</td>
<td>D</td>
<td>A</td>
</tr>
<tr>
<td>Reasonable Use Exception (chapter 24.45)</td>
<td>R</td>
<td>D</td>
</tr>
<tr>
<td>Permit and Administrative Action Amendments</td>
<td>Same approval authority and review process as the original action being amended.</td>
<td></td>
</tr>
<tr>
<td>Time Extensions</td>
<td>Same approval authority and review process as original decision/approval.</td>
<td></td>
</tr>
</tbody>
</table>

LEGEND:  A  =  Appeal  D  =  Decision  R  =  Recommendation
* See TCC 24.40.020 for selecting the appropriate process for a critical area review permit
** Subject to TCC 24.05.050 and 24.91.030.

24.05.040 Presubmission conference.
Prior to applying for a critical area review permit (chapter 24.40 TCC) or reasonable use exception (chapter 24.45 TCC), prospective applicants are encouraged to participate in a presubmission conference. Depending on the nature of the action, presubmission conferences
may be required by this title, or by the Thurston County Code. Applications for presubmission conferences shall be submitted to the department on forms provided by the department.

24.05.050 Appeals.
A. Appeals of administrative decisions may be taken to the hearing examiner by any person aggrieved or by any officer, department, board or commission of the county affected by any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this title. Appeals shall be filed in writing with the department within fourteen calendar days of the date of the notice of the decision being appealed on a form provided by the department. Appeals shall be considered in the manner prescribed by chapter 2.06 TCC. Appeals of administrative map amendments may be subject to a public hearing if requested by any aggrieved party or the county. Map amendments by the director that are consistent with a critical area delineation prepared for an approved specific development application’s critical area review or a reasonable use exception are not subject to appeal of an administrative decision if the approved critical area review permit becomes final.

B. Appeals of hearing examiner decisions on Type III permits and on appeals of administrative decisions (Type I and II), as provided in Table 24.05-1 TCC, may be brought to the board of county commissioners by any aggrieved party. Appeals shall be filed in writing with the department within fourteen calendar days of the date of the notice of the decision being appealed on a form provided by the department. Appeals shall be considered in the manner prescribed by chapter 2.06 TCC.

C. Any final decision by the board of county commissioners is appealable in the manner proscribed by state law.

24.05.060 Code interpretations.
Any person may request in writing an interpretation of any provision of this title. The department shall issue a written determination to the person requesting the interpretation in accordance with Type I procedures in TCC 20.60.020(1). The letter of request shall serve as the Type I application for code interpretations. A fee may be assessed for code interpretations consistent with TCC 24.05.110.

24.05.070 Critical area determinations.
A. Determining if critical areas are present. Any person seeking to determine whether a proposed activity or an area is subject to this chapter may request a Critical Area Determination (CAD) on an application provided by the department.

B. The CAD shall be processed as a Type I application.

C. Submission requirements. Applicants for a CAD shall submit all of the information requested on the application form provided by the department. Based on the quality and detail of information provided, the complexity of the site, or the potential of the proposed use to impact critical areas or buffers, the approval authority may request additional information as necessary to make a determination regarding the site.
D. Director findings. The director shall review the information submitted by the applicant and other relevant, available information and perform an on-site inspection to determine if a critical area, which includes the associated buffer, is located on the property. If the director cannot determine, based on available information or due to access limitations, whether the proposed development would encroach upon a critical area, the applicant shall be advised as to what is needed to make the determination. This may include full delineation and analysis of the critical area by a qualified professional at the applicant’s expense.

24.05.080 Submittal requirements – Critical area review permit.
Applications for critical area review permits under chapter 24.40 TCC shall be filed with the department using the application form provided by the department. This information is in addition to any related State Environmental Policy Act requirements under chapter 17.09 TCC. The application and any supporting materials shall provide the following information, as applicable:

A. Information required for an associated Type I, II, III, or IV application as specified in chapters 14.48, 20.60, 21.81, 22.62, and 23.72 TCC, or if no associated application is required by the above chapters, then information required for a Type II application as specified in TCC 20.60.030;

B. If applicable, delineation of the minimum setbacks required by titles 20, 21, 22 or 23 TCC (zoning codes);

C. Information required under chapter 24.40 TCC;

D. Any special reports required pursuant to this title due to the critical areas present on the property;

E. Any deviations from the provisions and standards of this title that would be needed to accommodate the proposed development or activity permitted in chapter 24.40 TCC;

F. Identification and evaluation of the potential impacts of the proposed development on the critical area(s) which includes associated buffer(s), and their functions, and proposed measures to avoid or mitigate the identified impacts; and

G. Any other information the County deems necessary to make a determination regarding the request.

24.05.090 Submittal requirements – Reasonable use exception.
Applications for reasonable use exceptions under chapter 24.45 TCC shall be filed with the department using the application form provided by the department. The application and any supporting materials shall provide the following information, as applicable:
A. Information required for a Type III application specified in TCC 20.60.030;

B. If applicable, delineation of the minimum setbacks required by titles 20, 21, 22 or 23 TCC (zoning codes);

C. Information required under chapter 24.45 TCC, including but not limited to the eligibility of the property for a reasonable use exception, the review criteria, and other matters required to be addressed in chapter 24.45 TCC;

D. Any special reports required pursuant to this title;

E. Any deviations from the provisions and standards of this title that would be needed to accommodate the proposed development or activity;

F. Identification and evaluation of the potential impacts of the proposed development on the critical area(s), which includes associated buffer(s), and their functions, and proposed measures to avoid or mitigate the identified impacts; and

G. Any other information the County deems necessary to make a determination regarding the request.

24.05.100 Recordation – Critical areas on property – Notice.
For a development proposal that does not involve the division of land where critical areas have been identified, the owner of a lot with a critical area and/or buffer shall record a notice on the title with the Thurston County Auditor that identifies the critical area location. This notice is not required if a preexisting notice has already been recorded that identifies the critical area in the same location. The applicant shall submit proof that any required notice has been filed for record as a prerequisite to permit approval. The notice shall be approved by the director prior to recordation, and, shall at a minimum, include a map and legal description of the critical area, and a notice substantially similar to the following:

“Prior to and during the course of any grading, building construction or other development activity on this property containing or abutting a critical area, the area of development activity must be fenced or otherwise marked to the satisfaction of Thurston County. The critical area shall be maintained in its existing condition, except as provided for by title 24 of the Thurston County Code, the Critical Areas Ordinance. Yard waste, debris, fill, equipment, vehicles, and materials shall not be placed in the critical area.”

24.05.110 Fees.
Applicants for permits or other approvals pursuant to this title shall pay applicable fee identified on the county fee schedule.