

Chapter 18.16

TIMBER HARVEST*

| Note: This table reflects additional potential changes and policy decision points. Final recommendations will be provided to the Planning Commission before its review. | |
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| Section | Comment |
| 18.16.060 | RCW 76.09.240 states that counties with more than 25 applications filed between January 1, 2003 – December 31, 2005 shall adopt and enforce ordinance for Class I, II, III, and IV within urban growth areas as well as future conversion permits. |
| 18.16.180 | This section reference a role by the Board of County Commissioners. DCD believes that DCD and the Hearing Examiner can perform the roles highlighted. |
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* **Editor’s Note:** Prior Ordinance History: Ordinance 150 (1993) was previously codified in this chapter.

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18.16.010 Title.

The ordinance codified in this chapter shall be known as the “Timber Harvest Ordinance.”

(Ord. 150-A (2000) § 1, 2000)

18.16.020 Purpose.

The purpose of this chapter is to identify and mitigate, minimize or eliminate potential impacts from timber harvest 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 76.09.0240 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 forest practices as defined in the Forest Practices Act, Chapter 76.09 RCW. 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 222-20-051~~0~~ relating to conversion option harvest plan 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 appropriate local governmental entity 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 with a memorandum of agreement between the Department of Natural Resources and Kitsap County.

(Ord. 150-A (2000) § 2, 2000)

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 222-20-0501.
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: Areas with a critical recharging effect on aquifers used for potable water;
 - (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 Department of Community, Development 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 commercial timber growing.
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;
 - (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" 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, 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 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.~~
256. "Vegetation" means all the plants or plant life on a specific parcel.

(Ord. 150-A (2000) § 3, 2000)

18.16.040 Compliance required.

All timber harvest permits shall comply with this chapter.

(Ord. 150-A (2000) § 4, 2000)

18.16.050 Exclusions.

This chapter shall not apply to timber harvest operations, 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.~~

(Ord. 150-A (2000) § 5, 2000)

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.~~

(Ord. 150-A (2000) § 6, 2000)

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 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.

(Ord. 150-A (2000) § 7, 2000)

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 and a DNR forester. 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 the forest practices application.

(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 of 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 KCC Title 19 Critical Areas and Title 22 Shoreline Master Program, or otherwise follow the guidelines for tree removal within KCC Titles 19 and 22.

(d) 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 permit is issued by the department.

(Ord. 150-A (2000) § 8, 2000)

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 222-20-0510 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 for a variance shall be consistent with the review authority table found in Section 21.04.100 and WAC 222-20-040.

(d) The conversion option harvest plan shall expire upon expiration of the forest practices application/notification.

(Ord. 150-A (2000) § 9, 2000)

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. ~~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.~~

(Ord. 150-A (2000) § 10, 2000)

~~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.~~

~~(Ord. 150-A (2000) § 11, 2000)~~

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 KCC 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.~~

(Ord. 291 (2002) § 14, 2002: Ord. 150-A (2000) § 12, 2000)

18.16.130 Review by director.

~~(a) — The director shall consider the following to assure the application meets the guideline of WAC 222-20-040:~~

- ~~(1) — Zoning, Title 17 Kitsap County Code;~~
- ~~(2) — Comprehensive Plan and subarea plans;~~
- ~~(3) — Shoreline Management Master Program, Title 22 Kitsap County Code;~~

- ~~(4) Flood Hazard Areas, Title 15 Kitsap County Code;~~
- ~~(5) Environment, Title 18 Kitsap County Code;~~
- ~~(6) Critical Areas Ordinance, Title 19 Kitsap County Code;~~
- ~~(7) Storm Water Drainage, Title 12 Kitsap County Code;~~
- ~~(8) Construction of Approaches to County Roads, Chapter 11.24 Kitsap County Code;~~
- ~~(9) Location and design of roads;~~
- ~~(10) Other applicable ordinances and regulations.~~

~~(b) The director shall determine if the application conforms to the requirements of this chapter.~~

~~(c) If the director approves of the timber harvest permit or conversion option harvest plan, he or she shall signify his or her approval by providing a letter to the owner within thirty calendar days of the application submittal.~~

~~(d) If the director disapproves or finds the application incomplete, he or she shall provide a written explanation thereof within 30 calendar days of the application submittal to the owner.~~

(Ord. 290 (2002) § 12, 2002; Ord. 150-A (2000) § 13, 2000)

18.16.140 Tax Reporting.

All County timber harvest permit applications, 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.

18.16.150 Timber harvest permit approval expiration.

Approval shall be valid for two years following approval and shall expire thereafter.

(Ord. 150-A (2000) § 15, 2000)

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 for a departmental ruling as set forth in ~~the KCC Chapter 21.04 Project Permit Application Procedures Land Use and Development and Procedures Ordinance (Title 21 of this code)~~ and subsequent amendments.

(Ord. 150-A (2000) § 16, 2000)

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 DNRthe Department of Natural Resources on approval, if applicable.

(Ord. 291 (2002) § 15, 2002: Ord. 150-A (2000) § 17, 2000)

~~**18.16.175 Forestry in Rural Wooded Incentive Program development.**~~

~~Forestry activities in the Wooded Reserve and Permanent Open Space tracts of a Rural Wooded Incentive Program development shall be reviewed by the Department for consistency with Washington State Department of Natural Resources timber harvest standards. Forestry activities within these tracts will not be considered Class IV general applications for conversion.~~

~~(Ord. 368 (2006) § 37, 2006)~~

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.

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 KCC 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.

(Ord. 150-A (2000) § 18, 2000)

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.

(Ord. 150-A (2000) § 19, 2000)

18.16.200 Construction.

This chapter shall be liberally interpreted and construed to secure the public health, safety, morals and welfare and the rule of strict construction shall have no application.

(Ord. 150-A (2000) § 20, 2000)